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**U.S. District Court
California Northern District (San Francisco)
CIVIL DOCKET FOR CASE #: 3:05-cv-03277-MHP**

Rush v. Intel Corporation
Assigned to: Hon. Marilyn H. Patel
Demand: \$5,000,000
Cause: 28:1332 Diversity-Non-Motor Vehicle

Date Filed: 08/11/2005
Jury Demand: Plaintiff
Nature of Suit: 410 Anti-Trust
Jurisdiction: Federal Question

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V.

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Date Filed	#	Docket Text
08/11/2005	<u>1</u>	ANTI-TRUST COMPLAINT: 28 USC 1332(d) Unreasonable restraint, anti-competitive actions, class action against defendant Intel Corporation (Filing fee \$ 250, receipt number 3375374.). Filed by plaintiff Edward Rush. Jury Demand, Summons Issued. (db, COURT STAFF) (Filed on 8/11/2005) Additional attachment(s) added on 8/24/2005 (tn, COURT STAFF). (Entered: 08/12/2005)
08/11/2005		CASE DESIGNATED for Electronic Filing. (db, COURT STAFF) (Filed on 8/11/2005) (Entered: 08/12/2005)
08/11/2005	<u>2</u>	ADR SCHEDULING ORDER: Case Management Statement due by 12/6/2005. Case Management Conference set for 12/13/2005 03:00 PM.. Signed by Judge Laporte on 7/26/05. (db, COURT STAFF) (Filed on 8/11/2005) Additional attachment(s) added on 8/12/2005 (db, COURT STAFF). Additional attachment(s) added on 8/12/2005 (tn, COURT STAFF). (Entered: 08/12/2005)
09/12/2005	<u>3</u>	STIPULATION AND [PROPOSED] ORDER TO EXTEND TIME FOR DEFENDANT TO ANSWER OR OTHERWISE RESPOND TO COMPLAINT by Intel Corporation. (Hockett, Christopher) (Filed on 9/12/2005) (Entered: 09/12/2005)

09/12/2005	4	Statement of Facts <i>DEFENDANT'S FEDERAL RULES OF CIVIL PROCEDURE 7.1 AND CIVIL LOCAL RULE 3-16 DISCLOSURE STATEMENTS</i> filed by Intel Corporation. (Hockett, Christopher) (Filed on 9/12/2005) (Entered: 09/12/2005)
09/13/2005	5	STIPULATION AND ORDER TO EXTEND TIME FOR DEFENDANT TO ANSWER OR OTHERWISE RESPOND TO COMPLAINT. Signed by Magistrate Judge Elizabeth D. Laporte on September 13, 2005. (edllc2, COURT STAFF) (Filed on 9/13/2005) (Entered: 09/13/2005)
09/29/2005	6	ORDER RELATING CASES C 05-3271 EMC, C 05-3272 JL, C 05-3273 EMC, AND C 05-3277 EDL to C 05-2669 MHP; Case reassigned to Judge Marilyn H. Patel for all further proceedings; Signed by Judge Marilyn Hall Patel on 9/26/2005(awb, COURT-STAFF) (Filed on 9/29/2005) (Entered: 09/29/2005)
10/03/2005	7	First MOTION for Extension of Time to File Answer re 1 Complaint, filed by Intel Corporation. (Hockett, Christopher) (Filed on 10/3/2005) (Entered: 10/03/2005)
10/03/2005	8	Declaration of Richard A. Ripley in Support of 7 First MOTION for Extension of Time to File Answer re 1 Complaint, filed by Intel Corporation. (Attachments: # 1 Exhibit A# 2 Exhibit B# 3 Exhibit C) (Related document(s) 7) (Hockett, Christopher) (Filed on 10/3/2005) (Entered: 10/03/2005)
10/03/2005	9	Proposed Order re 7 First MOTION for Extension of Time to File Answer re 1 Complaint, by Intel Corporation. (Hockett, Christopher) (Filed on 10/3/2005) (Entered: 10/03/2005)
10/05/2005	10	ORDER by Judge Marilyn Hall Patel granting 7 defendant's Motion for Extension of Time to Answer (awb, COURT-STAFF) (Filed on 10/5/2005) (Entered: 10/05/2005)
11/01/2005	11	STIPULATION AND [PROPOSED] ORDER TO STAY DATES, EVENTS AND DEADLINES PENDING THE OUTCOME OF THE MOTION TO TRANSFER AND COORDINATE OR CONSOLIDATE PURSUANT TO 28 U.S.C. SECTION 1407 by Intel Corporation. (Fuyuno, Joy) (Filed on 11/1/2005) (Entered: 11/01/2005)
11/08/2005	12	STIPULATION AND ORDER STAYING CASE pending MDL determination; Signed by Judge Marilynn Hall Patel on 11/7/2005. (awb, COURT-STAFF) (Filed on 11/8/2005) (Entered: 11/08/2005)
11/17/2005	13	Letter from Joy K. Fuyuno re MDL Transfer Order of November 8, 2005. (Attachments: # 1 MDL Transfer Order)(Fuyuno, Joy) (Filed on 11/17/2005) (Entered: 11/17/2005)
01/05/2006	14	ORDER STATISTICALLY DISMISSING CASE pending MDL determination; Signed by Judge Marilyn Hall Patel on 1/5/2006. (awb, COURT-STAFF) (Filed on 1/5/2006) (Entered: 01/05/2006)
01/10/2006	15	ORDER of Transfer by the Judicial Panel on Multidistrict Litigation to transfer case to USDC for the District of Delaware (In Re Intel

		Corporation, Inc., Antitrust Litigation - MDL - 1717). (gba, COURT STAFF) (Filed on 1/10/2006) (Entered: 01/11/2006)
01/11/2006	16	Certified copy of transfer order, docket sheet along with the original case file sent to USDC for the District of Delaware (MDL - 1717). (gba, COURT STAFF) (Filed on 1/11/2006) (Entered: 01/11/2006)

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Attorneys for Plaintiff Edward Rush on behalf of himself
and all others similarly situated

E-Filing

EDL

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

EDWARD RUSH on behalf of himself and
all others similarly situated,

Plaintiff,

v.

INTEL CORPORATION, a Delaware
corporation,

Defendant.

Case No. **05 3277**
COMPLAINT

CLASS ACTION

CLASS ACTION COMPLAINT

Plaintiff Edward Rush ("Plaintiff"), though his attorneys, on behalf of himself and
all others similarly situated in the District of Columbia, brings this action against Intel
Corporation and its subsidiaries, including Intel Kabushiki Kaisha (collectively, "Intel") for
damages and demands trial by jury, complaining and alleging upon information and belief as
follows:

NATURE OF THE ACTION

1
2 1. This case involves a scheme by Intel to illegally stifle and destroy
3 competition in order to maintain and extend its effective monopoly over microprocessors that run
4 the Microsoft Windows and Linux operating systems (the “x86 Microprocessor Market”),
5 leading to higher prices and less choice for consumers. Intel, by using devices that create
6 essentially impenetrable barriers to competition such as: (a) payments in return for exclusivity;
7 (b) discriminatory rebates, (c) discounts and subsidies conditioned on exclusive dealing
8 arrangements: (d) threats of economic retaliation against those who do business with anyone
9 other than Intel, or who cooperate with anyone other than Intel in the promotion of processors;
10 and/or (e) misuse of industry standards, has stifled competition and illegally leveraged its market
11 power to the detriment of consumers in the District of Columbia and nationwide.

12 2. Intel dominates the x86 Microprocessor Market. Intel sells approximately
13 80% of the microprocessors units sold worldwide, capturing 90% of the world revenue from
14 microprocessor sales. For over a decade Intel has unlawfully maintained its monopoly by
15 engaging in a relentless, worldwide campaign to coerce customers to refrain from dealing with
16 anyone other than Intel – a campaign that has resulted in consumers of products containing
17 microprocessors (the heart of the computer) paying higher prices for x86 microprocessors and the
18 equipment of which they are a part than they would have paid had Intel not illegally sabotaged
19 competition in the relevant market. In its efforts to illegally stifle competition in the
20 microprocessor market, Intel has, inter alia:

21 A. forced equipment manufacturers and other customers into
22 exclusive or near-exclusive deals;

23 B. conditioned rebates, allowances and market development funding
24 on customers’ agreement to limit its purchases from competitors;

25 C. established a system of discriminatory, retroactive, first-dollar
26 rebates that are available only when purchasers buy essentially all or all of their processors from
27 Intel;

28 D. threatened retaliation against customers that introduce computer

platforms based on products other than Intel's, particularly where those platforms would be sold in what Intel considers to be important market segments.

E. established and enforced quotas among key retailers effectively requiring them to stock almost exclusively Intel-powered computers, thereby artificially limiting consumer choice;

F. forced personal computer ("PC") makers and technology partners to boycott competitive product launches and promotions; and

G. abused its market power by forcing on the industry technical standards and products that are designed to handicap competitors in the marketplace without providing offsetting benefits to consumers.

3. Intel's economic coercion extends to all levels of the computer industry – from large computer-makers like Hewlett-Packard and IBM to small system-builders to wholesale distributors to retailers such as Circuit City. All must either accept conditions that exclude Intel's competitors or suffer discriminatory pricing and competitively crippling treatment. In this way, Intel has avoided competition on the merits, depriving competitors of the opportunity to compete against Intel based price and quality and depriving consumers throughout the United States, including the District of Columbia, of the quality and price benefits of a competitive market in microprocessors.

4. Intel's conduct has caused computer manufacturers to continue to buy most of their requirements from Intel, continue to pay monopoly prices, continue to be exposed to Intel's economic coercion, and continue to submit to artificial limits Intel places on their purchase from companies attempting to compete with Intel. With the opportunity for Intel's competitors to compete thus constrained, the cycle continues, and Intel's monopoly profits continue to flow.

5. Purchasers of computers and equipment with Intel x86 microprocessors in the District of Columbia, such as Plaintiff, as with consumers in throughout the United States, ultimately pay the price, in the form of inflated PC prices and the loss of freedom to purchase computer products that best fit their needs and budget. Consumers and the rest of society are

1 worse off because in stifling competition, Intel stifles the innovation provided by parties
2 competing in a competitive market.

3 6. The Japanese Government recognized these competitive harms when on
4 March 8, 2005, its Fair Trade Commission (the "JFTC") recommended that Intel be sanctioned
5 for its exclusionary misconducts directed at Advanced Micro Devices ("AMD"). Intel chose not
6 to contest the charges. The European Commission has also recently stepped up its investigation
7 of Intel's marketing practices.

8 JURISDICTION AND VENUE

9 7. The Court has jurisdiction pursuant to 28 U.S.C. § 1332(d), in that this is a
10 class action in which the matter or controversy exceeds the sum of \$5,000,000, exclusive of
11 interest and costs, and in which some members of the proposed class(es) are citizens of a state
12 different from Intel.

13 8. Venue is proper pursuant to 28 U.S.C. § 1391(a) because Intel resides and
14 is subject to personal jurisdiction in this District and because a substantial part of the events or
15 omissions giving rise to the claims occurred in this District.

16 THE PARTIES

17 9. Edward Rush is a resident of the District of Columbia who has purchased
18 a computer with an Intel microprocessor within the last 4 years.

19 10. Defendant Intel Corporation is a Delaware corporation with its principal
20 executive offices at Santa Clara, California, and it conducts business both directly and through
21 wholly-owned and dominated subsidiaries worldwide and is registered to do business in this
22 state. Intel and its subsidiaries design, produce, and sell a wide variety of microprocessors, flash
23 memory devices, chipsets, memory, motherboards and silicon-based products for use in the
24 computer and communications industries worldwide.

25 CLASS ACTION ALLEGATIONS

26 11. Plaintiff brings this action under Federal Rule of Civil Procedure
27 23 (b) (3) on his own behalf and on behalf of the following Class:

28 12. The Class is defined as:

All persons or entities present in the District of Columbia who indirectly purchased Intel x86 Microprocessors or products containing Intel x86 Microprocessors manufactured by Defendant from at least June 21, 2001 to the present. The Class of indirect purchasers of these products includes consumers and businesses that have purchased Intel x86 Microprocessors and/or products containing Intel x86 Microprocessors. Excluded from the class are all governmental entities, Defendant and its subsidiaries, co-conspirators and affiliates, as well as its co-conspirators. The Class further excludes the judge presiding over this matter and the judge's immediate family and staff.

13. Although the exact size of the Class is unknown, the total number of class members is in the tens of thousands, as all consumers in the District of Columbia who have purchased computers containing Intel x86 microprocessors are in the Class. Based upon the nature of the trade and commerce involved, the total number of Class members is such that joinder of the claims of all Class members would be impracticable.

14. Plaintiff's claims are typical of the claims of the Class in that Plaintiff purchased computers containing Intel chips that are the subject of Intel's illegal attempts to constrain trade in microprocessors.

15. The following common questions of law or fact, among others, exist as to the members of the Class:

A. Whether Intel engaged in anticompetitive conduct that renders it liable to the Class under the antitrust laws of the District of Columbia;

B. Whether Intel has a dominant share of the relevant product and geographic markets;

C. Whether Intel possessed monopoly power in the relevant market;

D. Whether there are substantial barriers to entry to the relevant product market;

E. Whether Intel has created artificial barriers to entry into the product market;

F. Whether Intel acquired or maintained power within the relevant market through anticompetitive activity;

G. The appropriate measure of the amount of damages suffered by the Class;

H. The appropriate nature of the class-wide relief;

I. Whether Intel has created substantial barriers to competition in the x86 Microprocessor Market; and

J. Whether there are any substitutes for x86 Microprocessors reasonably available.

16. These and other questions of law or fact which are common to the members of the Class predominate over any questions affecting only individual members of the Class.

17. After determination of the predominate and common issues identified above, if necessary or appropriate, the Class can be divided into logical and manageable subclasses.

18. Plaintiff will fairly and adequately protect the interests of the Class in that Plaintiff has no relevant interests that are antagonistic to other members of the Class and has retained counsel competent and experienced in the prosecution of Class actions and antitrust litigation to represent himself and the Class.

19. A class action is superior to other available methods for the fair and efficient adjudication of this litigation since individual joinder of all damaged Class members is impractical. The damages suffered by individual Class members are relatively small, given the expense and burden if individual prosecution of the claims asserted in this litigation. Thus, absent the availability of class action procedures, it would not be feasible for Class members to redress the wrongs done to them. Even if the Class members could afford individual litigation, the court system could not. Further, individual litigation presents the potential for inconsistent or contradictory judgments and would greatly magnify the delay and expense to all parties and to the court system. Therefore, the class action device presents far fewer case management difficulties and will provide the benefits of unitary adjudication, economy of scale and comprehensive supervision by a single court.

20. Intel has acted and refused to act, on grounds generally applicable to the Class, thereby making appropriate final injunctive relief with respect to the Class as a whole.

21. In the absence of a class action, Intel would be unjustly enriched because they would be able to treating the benefits and fruits of the wrongful conduct.

1 **INTEL'S MONOPOLY POWER IN THE RELEVANT MARKET**
2 **THE RELEVANT PRODUCT MARKET**

3 22. The relevant product market is the x86 Microprocessor Market. A
4 microprocessor is an integrated circuit that contains the entire central processing unit of a
5 computer on a single chip.

6 23. Although other microprocessors are offered for sale, the non-x86
7 microprocessors are not reasonably interchangeable with x86 microprocessors because none can
8 run the x86 Windows or Linux operating systems or the application software written for them.

9 24. A putative monopolist in this market can raise the prices of x86
10 microprocessors above a competitive level without losing so many customers to other
11 microprocessors as to make this increase unprofitable. While existing end-users can theoretically
12 shift to other operations system platforms, the costs associated with replacing existing hardware
13 and software make this impractical. Further, the number of new, first-time users who could
14 choose a different operating-system platform is too small to prevent an x86 microprocessor
15 monopolist from imposing a meaningful price increase for a non-transitory period of time.
16 Computer manufacturers would also encounter tremendous costs in switching from x86
17 processors to other architectures, and no major computer maker has ever done it. In short,
18 demand is not cross-elastic between x86 microprocessors and other microprocessors at the
19 competitive level.

20 **THE RELEVANT GEOGRAPHIC MARKET**

21 25. The relevant geographic market for x86 microprocessors is worldwide. A
22 relevant geographic submarket is the United States. PC platform architecture is the same from
23 country to country; microprocessors can easily and inexpensively shipped around the world, and
24 frequently are; and the potential for arbitrage prevents chipmakers from pricing processors
25 differently in one country than another. Further, the nature of the product and the market – as
26 well as Intel's actions in seeking to corner the market to the greatest degree possible, means that
27 consumers in the District of Columbia and throughout the United States are the real targets of the
28 Defendant's actions and bear much of the burden of Intel's anticompetitive activities, even

1 though its effects and the nature of its scheme are hidden from them in the whole prices they pay
2 for the product and in the structure of Intel's system of rebating and engaging in cooperative
3 advertising.

4 **INTEL'S MONOPOLY POWER IN THE RELEVANT MARKET**

5 26. Intel dominates the worldwide x86 Microprocessor Market. According to
6 industry reports, over the past several years it has consistently achieved more than a 90% market
7 share as measured by revenue. Intel has captured at least 80% of x86 microprocessor unit sales
8 in seven of the past eight years.

9 27. The only party with more than a de minimus market share in the relevant
10 market is AMD. AMD has consistently garnered about 9 percent of the revenue in the x86
11 market while its worldwide volume share has stayed at about 15 percent. Another competitor,
12 National Semiconductor, acquired Cyrix in 1997 and exited the market in 1998. At the
13 beginning of this year only two other x86 chip makers remained – Via Technologies, Inc.
14 (“Via”) and Transmeta Corporation (“Transmeta”). Transmeta has announced its intention to
15 stop selling x86 microprocessors, and Via faces dim prospects of growing its market share to a
16 sustaining level in light of Intel's anticompetitive activity.

17 28. Intel is shielded from new competition by huge barriers to entry. A chip
18 fabrication plant capable of efficiently mass-producing x86 microprocessors costs at least \$2.5 to
19 \$3.0 billion. In addition, any new entrant would need the financial wherewithal to underwrite the
20 billions more in research and development costs to design a competing x86 microprocessor and
21 to overcome almost insurmountable intellectual property barriers.

22 29. Annual worldwide consumption of x86 microprocessors currently stands
23 at just over 200 million units per year and is expected to grow by 50% over the balance of the
24 decade. Most x86 microprocessors are used in desktop PCs and mobile PCs, with desktops
25 currently outnumbering mobile by a margin of three to one. Of the total worldwide production of
26 computers powered by x86 microprocessors, 32% are sold to U.S. consumers.

27 30. The majority of x86 microprocessors are sold to a handful of large original
28 equipment manufacturers (“OEM”), highly visible companies recognized throughout the world

1 as the leading computer makers. The top nine OEM are regarded by the industry as “Tier One”
2 OEMs, which collectively account for almost 80% of servers and workstations (specialty high-
3 powered desktops), the Tier One OEMs are: Hewlett-Packard (“HP”), which now also owns
4 Compaq Computer (“Compaq”); Dell, Inc. (“Dell”); IBM, which as of May 1, 2005, sold its PC
5 (but not server) business to Lenovo, a P.C. maker based in Beijing, New York and North
6 Carolina; Gateway/eMachines; and Fujitsu/Fujitsu Siemens (“Fujitus”), the latter a Europe-based
7 joint venture. Toshiba, Acer, NEC and Sony are commonly viewed as Tier One OEMs in the
8 notebook segment of the PC Market. HP and Dell are the dominant players in the worldwide
9 desktop and mobile sales, collectively accounting for over 30% of those markets, and almost
10 60% of worldwide server sales. Both are U.S.-based companies, as is Gateway and Gateway /
11 eMachines; and all but Gateway have U.S. manufacturing operations (as does Sony, which
12 operates a North American production facility in San Diego).

13 31. The balance of x86 production is sold to smaller system builders and to
14 independent distributors. The latter, in turn, sell to smaller OEMs, regional computer
15 assemblers, value-added resellers and other distributors.

16 32. OEMs sell their computers through a variety of distribution channels
17 including sales directly to customers through web-based e-commerce, sales through company-
18 employed sales force and sales through a network of independent distributors (who focus on
19 smaller business customers). With the exception of Dell, which markets directly to consumers,
20 most OEMs also sell through retail chains. Intel and its customers compete not only to have
21 OEMs incorporate their microprocessors into their PCs but also to convince retailers to allocate
22 shelf-space, so that the PCs containing their respective microprocessors can be purchased in the
23 retailers’ store.

24 INTEL’S ANTICOMPETITIVE PRACTICES

25 33. When IBM defined the original PC standards in the early 1980’s, it had
26 available a variety of microprocessors each with its own instruction set – among these were
27 microprocessors developed by Motorola, Zilog, National Semiconductor, Fairchild, Intel and
28 AMD. IBM selected the Intel architecture, which utilized what became known as the x86

1 instruction set (after Intel's naming convention for its processors, i.e. 8086, 80186, 80286,
2 80386), and a compatible operating system offered by Microsoft, known as DOS. Unwilling to
3 be consigned to a single supply source, IBM demanded that Intel contract with another integrated
4 circuit company and license it to manufacture x86 chips. In 1982 to facilitate AMD's position as
5 a second source for x86 chips, the companies entered into the AMD – Intel Technology
6 Exchange Agreement (the "Agreement"). Intel soon thereafter set out to sabotage the
7 agreement.

8 34. In 1984, Intel decided it would become the sole-source for the promising
9 80386 chip. To fully realize its objective, Intel engaged in an elaborate and insidious scheme to
10 mislead AMD (and the public) into erroneously believing that AMD would be a second source
11 for supplying IBM with chips – at the time essentially the market, thereby keeping the
12 appearance of an alliance between AMD and Intel and keeping a veneer of competition for years.

13 INTEL'S MONOPOLY IS THREATENED

14 35. Intel's conduct gave it a significant head start over its competitors in the
15 x86 microprocessor market. In 1999 AMD introduced the Athlon microprocessor, it marked the
16 first (but not the last) time Intel was technologically surpassed, and beat it to market with a new
17 generation Windows microprocessor. AMD's Athlon chip was the first to break the 1GHz speed
18 barrier and outperformed Intel's Pentium III chips in tests.

19 36. In April of 2003, AMD introduced its Opteron microprocessor, the world's
20 first 64-bit x86 microprocessor for servers. Six months later, AMD launched the Athlon64, 64-
21 bit x86 microprocessor for desktops and mobile computers. AMD's new microprocessors were
22 backward compatible, meaning they could accommodate 32-bit software as well as 64-bit
23 programs.

24 37. Even though competitors were producing better microprocessors, at lower
25 prices, Intel has maintained its x86 microprocessor monopoly by deploying a host of financial
26 and other anticompetitive business strategies than in effect limit its customers' ability to deal
27 with competitors. Intel continues to dominate the x86 microprocessor market through the use of
28 anticompetitive practices including (i) direct payments in return for exclusivity and near-

1 exclusivity; (ii) discriminatory rebates, discounts and subsidies conditioned on customer
 2 “loyalty” that have the practical and intended effect of creating exclusive or near-excludes
 3 dealing arrangements; (iii) threats of economic retaliations against those who refuse to limit their
 4 business with competitors to Intel-approved models, brands, lines and/or sectors, or would
 5 cooperate too closely with competitors and (iv) misuse of industry standards setting processes so
 6 as to disadvantage competitors in the market place. As a result of these anticompetitive
 7 practices, consumers pay inflated prices of x86 microprocessors and equipment contain them,
 8 and have fewer competition choices for such microprocessors.

9 38. Intel’s anticompetitive misconduct is global. It has targeted both U.S. and
 10 foreign customers at all levels to prevent competitors from gaining market share, with the goal of
 11 keeping competitors small and keeping Intel’s customers dependent on Intel. In this way, OEMs
 12 remain vulnerable to continual threats of Intel retaliation, Intel’s potential competitors remain
 13 capacity-constrained, the OEMs remain Intel-dependent, and Intel thereby perpetuates its
 14 economic hold over OEMs, allowing Intel to continue to demand that its customers curtail their
 15 dealings with Intel’s potential competitors. And the cycle repeats itself: by unlawfully
 16 exploiting its existing market share, Intel impedes the competitive growth of its competitors and
 17 increases and perpetuates the harm of potential customers and consumers.

18 **INTEL’S ANTICOMPETITIVE PRACTICES DIRECTED AT OEMS AND** 19 **COMPETITORS DIRECTLY**

20 39. Currently, most of the major OEMs must deal with Intel. First, the other
 21 microprocessor manufacturers are too small to service all of an OEM’s needs while continuing to
 22 satisfy their existing customers demand. Second, to meet customer expectations, OEMs must
 23 assure commercial computer buyers that specifications, including the microprocessor, will
 24 remain unchanged during the product’s lifecycle.

25 40. Intel has induced OEMs to enter into exclusive and near-exclusive deals,
 26 thereby limiting its competitors’ ability to gain incremental market share. In addition, Intel has
 27 engaged in activities which have effectively excluded competitors from the most profitable
 28 product lines or from channels of distribution. For example, Intel has largely foreclosed its

competitors from the lucrative commercial desktop sector.

41. An April 5, 1999 article in *PC Week* describes the coercive effect of one such form of payment, the “Intel Inside” program:

The wildly successful program, which began broadly in 1994 as a way to create brand equity for the Pentium processor, has evolved into Intel’s premier marketing vehicle, managed by an army of attorneys, accountants and administrators. Intel (Nasdaq:INTC) has deftly used the program to keep competitors at bay in the most profitable segment of its business: corporate PCs. That, in turn, has left corporate buyers with fewer options—and higher prices—when choosing business desktops, notebooks and PC servers. A look at the Intel Inside program requirements, which Intel keeps under tight wraps, shows how fully the chip maker controls the marketing purse strings of PC makers that sign on. Interviews with numerous current and former executives at Intel’s largest OEM customers – all of whom declined to be identified, fearing reprisals from Intel – add fuel to the fire. These executives call the program addictive and claim their companies can’t compete without it...

The marketing dollars are enough of a carrot to make PC vendors sign off on Intel’s restrictive program requirements. Before PC makers are eligible for reimbursement, they must sign an OEM Trademark License Agreement that regulates everything from logo size and color to branding. The eligible systems are added to a form called Attachment C, which Intel uses to keep track of qualifying Intel Inside products. OEMs must modify Attachment C every time they introduce a new Intel-based system. Once a PC maker meets all Attachment C guidelines, Intel reimburses 6 percent of the total average selling price of each vendor’s worldwide microprocessor shipments. But Intel doesn’t give the cash back to the PC makers to use as they wish; instead, it deposits the money into an Intel-managed market development fund, or MDF, which the vendors must use to pay for print, Web, broadcast or radio advertising of their Intel-based systems. If they don’t use the funding within 12 months, they lose it...

If a vendor strays from Intel’s guidelines – even for an infraction as minor as using the wrong size Intel logo on their packaging – Intel can freeze its eligible marketing funds. Since the funds come from the PC companies’ chip payments, many customers believe Intel artificially inflates processor pricing to cover the costs. “They already have your extra money,” said a veteran executive who retired last year from a top PC company. “They’re charging you more money and then giving it back to you so you can advertise their products.”...

In addition to its impact on pricing, the Intel Inside program also affects PC makers’ product decisions. Although the guidelines don’t prohibit use of non-Intel chips, they provide strong monetary disincentives to do so, several OEMs said. How strong? A licensee forfeits all MDF funding for a brand if it adds a non-Intel chip to the line. If it wishes to use another vendor’s processor, it must establish an entirely new brand or sub-brand for that chip to retain funding for the existing brand. “There is no doubt that it’s one of the major factors that influence [product] decisions,” said a 20-year IBM PC executive who left the company in 1997. The source spoke from experience. In 1995, he said, IBM built several prototypes of low-cost retail and small office PCs based on Cyrix processors. But executives scrapped the plans, in part because they couldn’t leave what the source described as a “substantial” amount of advertising money on the table. The branding restrictions go a long way toward explaining why none of the

1 top 10 PC makers uses non-Intel chips in its business desktop lines.

2 42. Intel has imposed on OEMs a system of first-dollar rebates that have the
3 effect of creating exclusive or near-exclusive dealing arrangements and artificially foreclosing
4 competitors from any meaningful share of the market. In order to qualify for a rebate on any of
5 its purchases, an OEM must first achieve a target level of purchases set by Intel. Only upon an
6 OEM's reaching this target will Intel retroactively provide a rebate. Intel intentionally sets a
7 rebate trigger level of purchases it knows to constitute a substantial percentage of a customer's
8 needs.

9 43. By setting its rebate targets as a significant percentage of the customer's
10 requirements, Intel's rebate schemes are discriminatory and market-foreclosing. If a customer
11 chooses to purchase any significant quantity of microprocessors from an Intel competitor, it will
12 not qualify for its rebate, thus raising the price it will pay on all Intel microprocessors it buys. By
13 tailoring targets to each customer's size and anticipated volume, Intel locks up significant
14 percentages of the market much more effectively and at a lesser cost to itself – but to a greater
15 harm to its competitors and ultimately consumers – as compared to offering such rebates for
16 comparable purchase levels to all customers on a nondiscriminatory basis.

17 44. Intel's rebate and other business strategies effectively cap the volumes of
18 competitor-powered products than an OEM can buy and sell. The use of retroactive rebates
19 forecloses the possibility of a competitor inducing the OEM to launch a non-Intel powered
20 platform. Since OEMs incur substantial expense in designing and engineering a new computer,
21 and make the investment only if they foresee a substantial chance of selling a sufficient volume
22 to recoup it. Intel's business strategies effectively foreclose the possibility of significant
23 competitor-powered products from being developed and sold.

24 45. Intel also uses product bundling in an exclusionary manner. For example,
25 in bidding for a new OEM platform, Intel bundles microprocessors with free or heavily
26 discounted chipsets or motherboards. Because some of Intel's competitors do not sell chipsets or
27 motherboards, this product bundling enables Intel to avoid competing directly on microprocessor
28 price and quality by imposing disproportionate burdens on Intel's competitors that are wholly

1 unrelated to microprocessor product quality and price.

2 46. In April 2003, Intel also disrupted AMD's launch of its Opteron server
3 chip which was rolled out on April 22, 2003. With few in attendance and little industry support,
4 the Opteron server chip floundered in the market. A computer industry journal reported Intel's
5 fingerprints were all over the Opteron launch: "They all [vendors] told me that prior to the
6 launch, they received a phone call from Intel. Intel asked if they were going to the launch. If
7 they replied yes, then Intel rep asked them if it was 'important to them to go', or 'if they really
8 wanted to go.' Pressing the vendors, I got the same response, 'Intel is too smart to threaten us
9 directly, but it was quite clear from that phone call that we would be risking our various kickback
10 money if we went.'" (<http://theinquirer.net/?article=9139>.)

11 47. Other companies that reported being intimidated from participating in the
12 Opteron launch were MSI, Atipa, Solectron and Fujitsu-Siemens. Indeed, Intel representatives
13 told Fujitsu-Siemens' executives in the weeks preceding the Opteron launch that if they attended,
14 they would be the only Tier One OEM showing its support, because all of the other OEMs had
15 backed out. With the exception of IBM, Intel was right.

16 48. In March 2005, the Japan Fair Trade Commission ("JFTC") found that
17 Intel's wholly-owned Japanese subsidiary, Intel Kabushiki Kaisha ("IJKK"), had violated Section
18 3 of Japan's Antimonopoly Act, explaining as follows:

19 IJKK, since May 2002, has made the five major Japanese OEMs refrain from
20 adopting competitors' CPUs for all of most of the PCs manufactured and sold by
21 them or all of the PCs that belong to specific groups of PCs referred to as 'series',
22 by making commitments to provide the five OEMs with rebates and/or certain
23 funds referred to as 'MDF' (Market Development Fund) in order to maximize
24 their MSS [the proportion of Intel microprocessors incorporated into an OEM's
25 computers], respectively, on condition that:

26 (a) the Japanese OEMs make MSS at 100% and refrain from adopting
27 competitors' CPUs

28 (b) the Japanese OEMs make MSS at 90%, and put the ratio of
competitors' CPUs in the volume of CPUs to be incorporated into the PCs
manufactured and sold by them down to 10%; or

 (c) the Japanese OEMs refrain from adopting competitors' CPUs to be
incorporated into PCs in more than one series with comparatively large
amounts of production volume to others.

 49. According to the JFTC findings: "the ratio of the sales volume by AMD

1 Japan and Transmeta USA among Total Domestic CPU Sales Volume decreased from
2 approximately 24% in 2002 to approximately 11% in 2003. By means of such conducts, IJKK
3 has substantially restrained the competition in the market of CPUs sold to the Japanese OEMs,
4 by acting to exclude its competitors' business activities related to the sales of CPUs to the five
5 OEMs." Intel has accepted the JFTC's recommendations and has chosen not to contest its
6 conclusions.

7 **INTEL'S ANTICOMPETITIVE PRACTICES DIRECTED AT DISTRIBUTORS**

8 50. Intel employs tactics similar to those aimed at OEMs to prevent
9 distributors from carrying competitive products. For example, it entered into an exclusive deal
10 with Synnex, which is one of the largest microprocessor distributors in the United States. Given
11 Intel's substantial market share, there is no pro-competitive justification for the arrangement.

12 51. As with OEMs, Intel offers discounts and rebates to distributors on the
13 condition that they not do business with competitors, either worldwide or in what Intel considers a
14 strategic sub-market.

15 52. Intel also offers an array of programs to distributors in exchange for their
16 commitment to carry Intel microprocessors exclusively: marketing bonuses, increased rebates,
17 credit programs for new customers (credits that can be used for all products from Intel and any
18 other suppliers), payment for normal freight charges, and special inventory assistance such as
19 credits to offset inventory costs.

20 53. Intel also offers retroactive rebates triggered when a distributor reaches a
21 prescribed buying quota. Like the rebates offered to OEMs, the intent is to inflict economic
22 punishment on those who do too much business with Intel's competitors. But, unlike OEMs,
23 distributors are unaware of the specific "goals" Intel has set for them or the precise consequence
24 of failing to meet them – Intel does not share this information with distributors; they simply
25 receive a check at the end of the quarter. As a result, if distributors purchase any substantial
26 number of microprocessors from Intel's competitors, they put their Intel rebate money at risk.

ANTICOMPETITIVE PRACTICES DIRECTED AT RETAILERS

54. Approximately twenty percent of desktop and notebook computers are purchased at retail stores. A few of retailers dominate the U.S. PC market: Best Buy and Circuit City are the largest. Other significant, but smaller retailers are Walmart/Sam's Club, Staples, Office Depot and Office Max.

55. A chipmaker faces a two-step process to get its platform on retail shelves: first, it must convince one of more OEMs to build machines using its microprocessors at a suggested price point (called "getting on the roadmap"); and second, it must convince the retailer to stock and devote shelf space to these machines. Shelf space comes at a premium. The major retailers demand market development funds ("MDF") in exchange for shelf space. MDF can consist of cooperative advertising support, but more frequently it comprises a marketing-related opportunity that a chipmaker must buy for tens of thousands of dollars, for example, space in a Sunday circular, an in-store display or an internet training opportunity with the chain's sales staff.

56. Intel's ability to pressure OEMs to produce a significant portion of their product line with Intel microprocessor has naturally led to an overwhelming number of products available at a retail level. Also, it has significantly greater financial resources with which to buy retail shelf space for products containing Intel microprocessors. To leverage those advantages, Intel has also made exclusive deals with many key retailers.

57. To further limit competitors access to consumers, Intel instituted a rebate program similar to what it foisted on OEMs, with a similar exclusionary effect. Under this program, Intel provides full MDF payments to retailers, such as Best Buy and Circuit City, only if they agree to limit to 20 % not just the shelf space devoted to competitor based products, but also the share of revenues they generate from selling competing platforms. If a competitor's share exceeds 20%, the offending retailer's marketing support from Intel is cut by 33% across all Intel products.

58. Intel's dealings with retailers are unlawfully exclusionary, have no pro-competitive justification, and are intended to maintain its monopoly.

INTEL'S STANDARD SETTING AND OTHER TECHNICAL ABUSES

59. Companies within the computer industry often agree to design certain aspects of their products in accordance with industry standards to ensure broad compatibility. Indeed, standards are not only ubiquitous in the computer industry, they are essential. But when a company is unfairly excluded from the standards-setting process or is denied timely access to the standard, competition can be restrained in a way that reverberates throughout the entire market. Intel has employed, and continues to employ, a variety of tactics that have the purpose and effect of excluding and/or hampering competitors' full and active participation in the development of important industry standards. It has also worked to deny competitors timely access to such standards. Its efforts have hampered its competitors' ability to vigorously compete in the market.

60. Although industry organizations responsible for establishing standards governing computer memory chips exist, such as the Joint Electronic Device Engineering Council ("JEDEC"), Intel has convened a secret committee that it dubbed the Advanced DRAM Technology ("ADT") Consortium to develop and promulgate competing memory standards.

61. Arrangements such as this allow Intel to tighten its control over the industry by converting what the component manufacturers intend as a public standard into a proprietary one, and thereby guarantees itself an undeserved head-start and unfair competitive advantage.

62. Even where it has been unable to exclude competitors from participating in the development of industry standards, Intel has attempted to drive the adoption of standards having no substantial consumer benefit and whose sole purpose was to competitively disadvantage competitors based on its highly integrated microprocessor architecture. For example, Intel proposed that JEDEC modify a proposed industry standard for dual inline memory modules, ("DIMMs") in a way that has no technical merit, but if adopted, would delay competitors' ability to enter and compete in the market.

63. Intel has also designed and marketed microprocessor-related products with the goal of compromising performance for those who opt for competitors' products, even if it

1 requires Intel to sacrifice its own product quality and integrity. For example, Intel has designed
2 its compilers, which translate software programs into machine-readable language to degrade
3 performance when a program is run on an AMD platform. When software programs created with
4 Intel compilers detect an AMD microprocessor (i.e., when “CPUID,” which identifies the
5 microprocessor is “Authentic AMD”) they execute a code path that disrupts the program and can
6 cause the program to crash.

7 64. Intel has not been content with simply locking up the microprocessor
8 market; through the use of their monopoly power in the microprocessor market they are seeking
9 to expand into chipsets, memory, and motherboard markets.

10 65. In April 2002, Intel and Intergraph Corporation (“Intergraph”)¹ entered
11 into a settlement agreement to end litigation filed by Intergraph in the United States District
12 Court for the Northern District of Alabama. In that suit, Intergraph alleged that Intel had engaged
13 in anticompetitive behavior and infringed on Intergraph’s patents. Specifically, Intergraph alleged
14 that Intel used its dominant market positions in the microprocessor market to coerce Intergraph
15 into giving up valuable patent rights. According to the Intergraph complaint, Intel again
16 employed its familiar coercive tactics: withholding essential design and defect information for
17 released Intel products and intentionally interfered with Intergraph’s customers and suppliers.

18 66. In the settlement agreement with Intergraph, Intel paid \$300,000,000.00
19 for a license under the Intergraph Patents. The license granted to Intel under the settlement
20 agreement expressly excludes a license to Intel’s customers to combine licensed Intel products
21 with other third party chipsets or memory. Thus a purchaser who purchases only a
22 microprocessor from Intel without a license to combine that microprocessor with a chipsets and
23 memory must either negotiate a license with Intergraph or infringe the Intergraph patent and run
24 the risk of a patent infringement lawsuit. The end result would be that the only way to avoid the
25 patent issues would be to purchase not only the microprocessor, but also the chipsets, memory,
26

27 ¹ Intergraph is the world’s largest company dedicated to supplying interactive computer graphics
28 systems. Intergraph also makes and markets workstations for the engineering field.

1 and motherboard from Intel.

2 67. The settlement agreement also granted a license to Intel's customers which
3 use an Intel motherboard, so long as that motherboard contains exclusively Intel processing
4 elements.

5 68. As a result, a purchaser of Intel's microprocessor can either (1) purchase
6 the rest of its chipsets, motherboard, and memory from Intel, or (2) purchase a third party
7 chipsets, motherboard, and memory and face the possibility of a patent infringement lawsuit from
8 Intergraph, if they fail to enter into a license agreement with Intergraph.

9 69. The above described settlement agreement allows Intel to effectively force
10 its customers, using its market power in the microprocessor market and under threat of suit from
11 Intergraph, to purchase not only Intel microprocessors, but also Intel chipsets, memory, and
12 motherboards.

13 **EFFECTS OF INTEL'S MISCONDUCT**

14 70. Were it not for Intel's acts, Intel's competitors would be able to compete
15 for microprocessor market on competitive merit, bringing customers and end-product consumers
16 such as Plaintiff, lower prices, enhanced innovation and greater freedom of choice.

17 71. Intel's anticompetitive acts both inside and outside of the territorial
18 boundaries of the United States have a direct, substantial, and reasonable foreseeable effect on
19 trade and commerce and consumers, like Plaintiff, located in the District of Columbia, as well as
20 consumers throughout the United States.

21 72. Intel's actions are also effectively hidden from those who are ultimately
22 affected most its actions: consumers. Intel's rebate programs and the exclusivity of those rebate
23 programs are not publicly disclosed, nor are their effects – which together with their other
24 exclusionary practices, show up only in the predominance of Intel products in consumer
25 computer products. As noted earlier, Intel relies on the uncertainty and fear created by its lack of
26 disclosure as to some of its rebate and incentive programs to create an interrorem effect among
27 distributors. Further, even at the retail level, Intel's incentives, exclusive dealings, are, upon
28 information and belief, largely kept from the public for fear that they would hurt Intel's image

1 with consumers and the ability to generate public good will in light of an image of buying off
2 retailers and distributors to avoid competition.

3 **IMPERMISSIBLE MARKET EFFECTS UNDER**

4 73. The contract, combination, and conspiracy alleged herein had the
5 following effects, among others:

6 A. Competition between and among Defendant and their competitors
7 in the sale of x86 microprocessors was unreasonably restrained;

8 B. Indirect purchasers of x86 microprocessors were deprived of the
9 benefits of free and open competition; and

10 C. Prices paid by Plaintiff and other Class members for x86
11 microprocessors were fixed, raised, maintained, and stabilized at artificially high and
12 noncompetitive levels.

13 74. As a result, Plaintiff and members of the Class have been injured in their
14 business and property in that they paid more for products containing x86 microprocessors than
15 they otherwise would have paid in the absence of Defendant's unlawful anticompetitive
16 practices.

17 **COUNT I**

18 **VIOLATION OF THE DISTRICT OF COLUMBIA ANTITRUST ACT OF 1980:**

19 **ILLEGAL RESTRAINT OF TRADE**

20 75. Plaintiff incorporates herein by reference the allegations contained in
21 paragraphs 1-76 above.

22 76. Beginning at least as early as July 11, 2001, and continuing to the present,
23 Intel and its distributors and OEMs, together with others, have engaged in conduct constituting
24 contracts, combinations, and conspiracy in unreasonable restraint of trade a part of which is
25 conducted in the District of Columbia, in violation of D.C. Code § 28-4502.

26 77. The conduct violating D.C. Code § 28-4502 is continuing and will
27 continue unless the relief prayed for herein is granted.

28 78. Plaintiff and Class members have been and will continue to be injured in

1 their business and property by Defendant's illegal conduct.

2 79. Pursuant to D.C. Code §25-4508(a), Plaintiff demands treble damages and
3 disgorgement from Defendant of all monies illegally acquired by it as a result of the unlawful
4 conduct alleged herein as provided by law in the District of Columbia.

5 **COUNT II**

6 **VIOLATION OF THE DISTRICT OF COLUMBIA ANTITRUST ACT OF 1980:**
7 **ILLEGAL MONOPOLIZATION**

8 80. Plaintiff incorporates herein by reference the allegations contained in
9 paragraphs 1-81 above.

10 81. Beginning at least as early as July 11, 2001, and continuing to the present,
11 Defendant's illegal, anticompetitive and deceptive actions as described in this Complaint
12 constitute practices prohibited by D.C. Code § 28-4503.

13 82. During the Class Period, Defendant directly or indirectly, and through
14 affiliates they controlled, acted to illegally and deceptively to constrain and monopolize the
15 market for x86 Microprocessor chips to be marketed and sold to consumers as part of products
16 sold and distributed in the District of Columbia, and thus monopolize the consumer market for
17 x86 microprocessors in the District of Columbia. These actions, designed to prevent consumers
18 from having a choice and the benefits of competition and to hide the actions behind rebates and
19 cooperative marketing programs, the full details of which were not fully disclosed even to the
20 participants, restrained trade or commerce in District of Columbia, and were designed to have,
21 and did have, a substantial and adverse impact on choice, prices and quality of x86
22 microprocessors delivered and marketed to consumers in the District of Columbia. Thus, Intel's
23 actions served to establish, maintain and/or use a monopoly or constituted an attempt to establish
24 a monopoly of trade or commerce, a part of which is within the District of Columbia, for the
25 purpose excluding competition and/or controlling, fixing or maintaining prices, as prohibited by
26 D.C. Code § 28-4503.

27 83. Intel's unlawful actions in monopolizing and attempting to monopolize
28 and stifle competition and reduce consumer choice in the microprocessor market have caused,

1 and continue to cause, substantial injury and damage to Plaintiff, the Class – consumers of
2 computer products containing x86 microprocessors in the District of Columbia – and the public.

3 84. Plaintiff and Class members have been and will continue to be injured in
4 their business and property by Defendant's illegal conduct.

5 85. Pursuant to D.C. Code § 25-4508(a), Plaintiff demands treble damages
6 and disgorgement from Defendant of all monies illegally acquired by it as a result of the unlawful
7 conduct alleged herein as provided by law in the District of Columbia.

8 **COUNT III**

9 **UNJUST ENRICHMENT**

10 86. Plaintiff incorporates herein by reference the allegations contained in
11 paragraphs 1-87 above.

12 87. Defendant benefitted from its unlawful acts through the overpayment for
13 x86 Microprocessors by Plaintiff and the Class. It would be inequitable for Defendant to be
14 permitted to retain the benefit of these overpayments, which were conferred by Plaintiff and the
15 Class and retained by Defendant.

16 88. Plaintiff and the Class are entitled to have Intel's excess and unjustly
17 obtained profits properly allocable to consumers in the District of Columbia disgorged by Intel
18 and paid to the Plaintiff and the Class as damages or restitution.

19 **JURY TRIAL**

20 Plaintiff requests a trial by jury on all issues so triable.

21 **RELIEF REQUESTED**

22 WHEREFORE, Plaintiff prays for judgment against Defendant and respectfully
23 requests the Court:

24 1. Certify this action to proceed as a class action pursuant to Rule 23, and
25 direct that reasonable notice be given to members of the Class;

26 2. Adjudge and decree that Defendant's conduct has violated D.C. Code §§
27 28-4502 and 28-4503, and that the Court award Plaintiff and the Class (i) actual damages in the
28 amount to be proved at trial of the wrongful conduct alleged, trebled pursuant to D.C. Code § 28-

1 4508(a), plus interest, and costs; and (ii) all other damages available under the law of the District
2 of Columbia, including attorneys fees;

3 3. Find that the Defendant was unjustly enriched and that the Defendant
4 should disgorge its unjustly obtained profits for the benefit of the Class;

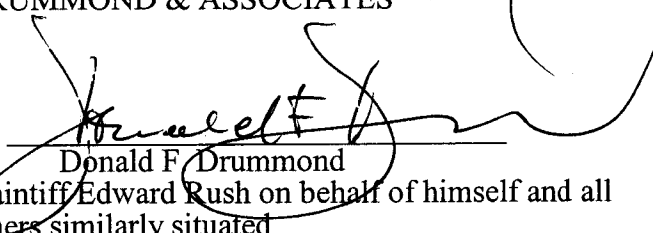
5 4. Award Plaintiff and the members of the Class the costs of this suit,
6 including reasonable attorneys' fees;

7 5. Award Plaintiff and the members of the Class pre-judgment and post-
8 judgment interest on the above sums at the highest rate allowed by law; and

9 6. Grant such other and further relief as this Court deems to be just and
10 equitable.

11
12 Dated: August 10, 2005

DRUMMOND & ASSOCIATES

13
14 By 
15 Donald F. Drummond
16 Plaintiff Edward Rush on behalf of himself and all
others similarly situated

17 G:\drummondassoc\intel-class-action\compl-dc.wpd

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

)	
)	
EDWARD RUSH)	
Plaintiff(s))	
)	C 05-03277 EDL
-v-)	
)	ORDER SETTING INITIAL CASE MANAGEMENT
INTEL CORPORATION)	CONFERENCE
Defendant(s))	
)	

IT IS HEREBY ORDERED that this action is assigned to the Honorable Elizabeth D. Laporte. When serving the complaint or notice of removal, the plaintiff or removing defendant must serve on all other parties a copy of this order, the handbook entitled "Dispute Resolution Procedures in the Northern District of California," the Notice of Assignment to United States Magistrate Judge for Trial, and all other documents specified in Civil Local Rule 4-2. Counsel must comply with the case schedule listed below unless the Court otherwise orders.

IT IS FURTHER ORDERED that this action is assigned to the Alternative Dispute Resolution (ADR) Multi-Option Program governed by ADR Local Rule 3. Counsel and clients must familiarize themselves with that rule and with the handbook entitled "Dispute Resolution Procedures in the Northern District of California."

CASE SCHEDULE [ADR MULTI-OPTION PROGRAM]

Date	Event	Governing Rule
08/11/2005	Complaint filed	
11/22/2005	Last day to meet and confer re initial disclosures, early settlement, ADR process selection, and discovery plan	FRCivP 26(f) & ADR LR 3-5
11/22/2005	Last day to file Joint ADR Certification with Stipulation to ADR process or Notice of Need for ADR Phone Conference	Civil L.R. 16-8
12/06/2005	Last day to complete initial disclosures or state objection in Rule 26(f) Report, file/serve Case Management Statement, and file/serve Rule 26(f) Report	FRCivP 26(a)(1) Civil L.R.16-9
12/13/2005	Case Management Conference in Ctrm E, 15th Floor, SF at 3:00 PM	Civil L.R. 16-10

STANDING ORDER

Magistrate Judge Elizabeth D. Laporte

- 1) Civil law and motion is heard on Tuesdays at 9:00 a.m. Criminal law and motion is heard on Tuesdays at 11:00 a.m. Counsel need not reserve a hearing date in advance. However, noticed dates may be reset as the court's calendar requires.
- 2) Case Management Conferences are heard on Tuesdays at 10:00 a.m. Pretrial Conferences are heard on Tuesdays at 2:00 p.m.
- 3) Discovery motions may be addressed to the Court in three ways. A motion may be noticed on not less than 35 days pursuant to Civil L.R. 7-2. Alternatively, any party may seek an order to shorten or enlarge time under Civil L.R. 6-3 if the circumstances justify that relief. In emergencies during discovery events, the Court is available pursuant to Civil L.R. 37-1(b).

In the event a discovery dispute arises, counsel (or if pro se, the party) seeking discovery or a protective order shall confer in good faith with opposing counsel (or pro se party) in an effort to resolve the dispute without court action, as required by Fed. R. Civ. P. 37 and Civil L.R. 37-1(a). A declaration setting forth these meet and confer efforts and the final positions of each party shall be included in the moving papers. The Court will not consider discovery motions unless the moving party has complied with Fed. R. Civ. P. 37 and Civil L.R. 37-1(a).

Motions to compel fact discovery must be filed no later than ten days after the fact discovery cutoff. Motions to compel expert discovery must be filed no later than ten days after the expert discovery cutoff.

- 4) The Court strives to set matters and render decisions in a timely manner. The Court encourages parties to advise the Court by letter to chambers of any matter that appears to have been unduly delayed.
- 5) For all papers filed in any matter pending before Judge Laporte, a chambers' copy shall be provided and clearly marked.
- 6) A paper chambers copy of all electronically filed documents must be delivered to the Court no later than 12:00 noon on the day after the document is electronically filed. The paper chambers copy must be marked "Chambers Copy" and must be lodged with the Clerk's Office, in an envelope clearly marked with the judge's name, case number, and "Chambers Copy." Parties must not file a paper copy of any document with the Clerk's Office that has already been filed electronically.

IT IS SO ORDERED.

Dated: June 4, 2003

ELIZABETH D. LAPORTE
United States Magistrate Judge

BINGHAM McCUTCHEN LLP
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Attorneys for Defendant
Intel Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EDWARD RUSH, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

INTEL CORPORATION, a Delaware
Corporation,

Defendant.

No. C-05-3277

STIPULATION AND [PROPOSED]
ORDER TO EXTEND TIME FOR
DEFENDANT TO ANSWER OR
OTHERWISE RESPOND TO
COMPLAINT

IT IS STIPULATED BY AND BETWEEN THE PARTIES, THROUGH THEIR
COUNSEL AS FOLLOWS:

Pursuant to Civil Local Rule 6-2, Plaintiff Edward Rush and Defendant Intel
Corporation hereby stipulate that Intel Corporation's response to Plaintiff's complaint be
extended 30 days, up to and including October 12, 2005.

This is the first stipulation between the parties. Because this litigation has just
begun, granting such a stipulation will not have any negative impact on the schedule of this case.

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Case No. C-05-3277

STIPULATION AND [PROPOSED] ORDER TO EXTEND TIME

1 DATED: September 12, 2005

2
3 BINGHAM McCUTCHEN LLP

4
5 By: /s/ Joy K. Fuyuno
6 Joy K. Fuyuno
7 Attorneys for Defendant
Intel Corporation

8 DATED: September 12, 2005

9
10 DRUMMOND & ASSOCIATES

11
12 By: /s/ Donald F. Drummond
13 Donald F. Drummond
14 Attorneys for Plaintiff
15 Edward Rush
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[Proposed] Order to Extend Response Time

IT IS HEREBY ORDERED that Defendant Intel Corporation shall have up to and including October 12, 2005 to respond to Plaintiff Edward Rush's complaint.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: September ____, 2005

United States District Judge

BINGHAM McCUTCHEN LLP
DAVID M. BALABANIAN (SBN 37368)
CHRISTOPHER B. HOCKETT (SBN 121539)
JOY K. FUYUNO (SBN 193890)
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San Francisco, California 94111-4067
Telephone: (415) 393-2000

Attorneys for Defendant
Intel Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EDWARD RUSH, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

INTEL CORPORATION, a Delaware
Corporation,

Defendant.

No. C-05-3277

DEFENDANT'S FEDERAL RULES OF
CIVIL PROCEDURE 7.1 AND CIVIL
LOCAL RULE 3-16 DISCLOSURE
STATEMENTS

Pursuant to Rule 7.1, Federal Rules of Civil Procedure, the undersigned certifies
that there is no parent company and no publicly held entity that owns 10% or more of Intel.

Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other
than the named parties, there is no such interest to report.

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1 DATED: September 12, 2005

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3 BINGHAM McCUTCHEN LLP

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5 By: /s/ Joy K. Fuyuno

6 Joy K. Fuyuno
7 Attorneys for Defendant
8 Intel Corporation
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BINGHAM McCUTCHEN LLP
DAVID M. BALABANIAN (SBN 37368)
CHRISTOPHER B. HOCKETT (SBN 121539)
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Attorneys for Defendant
Intel Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EDWARD RUSH, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

INTEL CORPORATION, a Delaware
Corporation,

Defendant.

No. C-05-3277

STIPULATION AND [PROPOSED]
ORDER TO EXTEND TIME FOR
DEFENDANT TO ANSWER OR
OTHERWISE RESPOND TO
COMPLAINT

IT IS STIPULATED BY AND BETWEEN THE PARTIES, THROUGH THEIR
COUNSEL AS FOLLOWS:

Pursuant to Civil Local Rule 6-2, Plaintiff Edward Rush and Defendant Intel
Corporation hereby stipulate that Intel Corporation's response to Plaintiff's complaint be
extended 30 days, up to and including October 12, 2005.

This is the first stipulation between the parties. Because this litigation has just
begun, granting such a stipulation will not have any negative impact on the schedule of this case.

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Case No. C-05-3277

STIPULATION AND [PROPOSED] ORDER TO EXTEND TIME

1 DATED: September 12, 2005

2
3 BINGHAM McCUTCHEN LLP

4
5 By: /s/ Joy K. Fuyuno
6 Joy K. Fuyuno
7 Attorneys for Defendant
Intel Corporation

8 DATED: September 12, 2005

9
10 DRUMMOND & ASSOCIATES

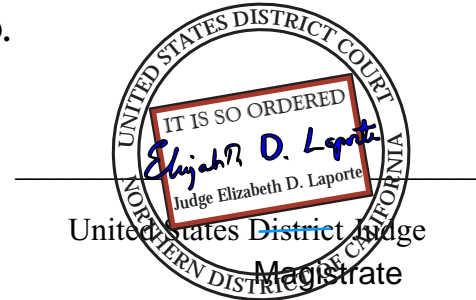
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12 By: /s/ Donald F. Drummond
13 Donald F. Drummond
14 Attorneys for Plaintiff
15 Edward Rush
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[Proposed] Order to Extend Response Time

IT IS HEREBY ORDERED that Defendant Intel Corporation shall have up to and including October 12, 2005 to respond to Plaintiff Edward Rush's complaint.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: September 13, 2005



FILED

SEP 29 2005

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA~~PROPOSED~~ RELATED CASE ORDER

A Motion for Administrative Relief to Consider Whether Cases Should be Related (Civil L.R. 3-12) has been filed. As the judge assigned to the above-captioned case, I find that the more recently filed case(s) that I have initialed below are related to the case assigned to me, and such case(s) shall be reassigned to me. Any cases listed below that are not related to the case assigned to me are referred to the judge assigned to the next-earliest filed case for a related case determination.

C 05-2669 MHP David E. Lipton et al -v- Intel Corporation

C-05-3271 EMC Jose Juan, et al. v. Intel Corporation

I find that the above case is related to the case assigned to me. 

C-05-3272 JL Dressed to Kill Custom Draperies, LLC, et al. v. Intel Corporation

I find that the above case is related to the case assigned to me. 

C-05-3273 EMC Tracy Kinder, et al. v. Intel Corporation

I find that the above case is related to the case assigned to me. 

C-05-3277 EDL Edward Rush, et al. v. Intel Corporation

I find that the above case is related to the case assigned to me. 

~~PROPOSED~~ ORDER

Counsel are instructed that all future filings in any reassigned case are to bear the initials of the newly assigned judge immediately after the case number. Any case management conference in any reassigned case will be rescheduled by the Court. The parties shall adjust the dates for the conference, disclosures and report required by FRCivP 16 and 26 accordingly. Unless otherwise ordered, any dates for hearing noticed motions are vacated and must be re-noticed by the moving party before the newly assigned judge; any deadlines set by the ADR

1 Local Rules remain in effect; and any deadlines established in a case management order continue
2 to govern, except dates for appearance in court, which will be rescheduled by the newly assigned
3 judge.

4 DATED: 9/26, 2005


Honorable Marilyn H. Patel

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Attorneys for Defendant
Intel Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EDWARD RUSH, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

INTEL CORPORATION, a Delaware
corporation,

Defendant.

No. C-05-3277 (MHP)

INTEL'S MOTION TO ENLARGE
TIME TO RESPOND TO COMPLAINT;
DECLARATION OF RICHARD A.
RIPLEY IN SUPPORT THEREOF;
[PROPOSED] ORDER

Pursuant to Civil L.R. 6-1(b) and 6-3, Defendant Intel Corporation ("Intel") respectfully
moves this Court for an order enlarging Intel's time to respond to the Complaint of Plaintiff
Edward Rush ("Rush") until either (1) 60 days after transfer of the above-styled action pursuant
to any motion to coordinate or consolidate pre-trial proceedings pursuant to 28 U.S.C. §1407 or
(2) 45 days after any such motion has been denied. The grounds for Intel's motion are as
follows:

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INTEL'S MOTION TO ENLARGE TIME TO RESPOND TO COMPLAINT;
DECLARATION OF RICHARD A. RIPLEY IN SUPPORT THEREOF; [PROPOSED] ORDER

1 This case is one of over 70 federal purported class actions (“related actions”) — 27 of which
 2 have been filed in this district — that similarly allege that Intel has violated federal and state
 3 antitrust laws. Declaration of Richard A. Ripley (“Ripley Decl.”) ¶ 3 & Exh. B.¹ Rush’s
 4 complaint, filed on August 11, 2005, is the 62nd federal purported class action filed and the 27th
 5 in this district. *Id.* ¶ 3

6 On July 14, 2005, nearly one month before Juan filed his complaint here, the plaintiffs in
 7 *Brauch et al. v. Intel Corp.*, No. C:05-2743 (MP) (N.D. Cal.), petitioned the Judicial Panel on
 8 Multidistrict Litigation (“JMPL”) to have the related actions consolidated for pretrial purposes
 9 (*In re Intel Microprocessor Antitrust Litigation*, MDL 1717) pursuant to 28 U.S.C. §1407.
 10 Ripley Decl. ¶ 4 & Exh. A. On September 16, 2005, Intel identified this action as a tag-along
 11 action to be included in the MDL. *Id.* & Exh. B. Plaintiff has not objected to this complaint
 12 being designated as a tag-along action or being included in MDL 1717. *Id.* ¶ 4. Indeed, none of
 13 the plaintiffs in the related actions have objected to MDL treatment. *Id.*

14 In an effort treat all these related actions equally and put each on the same track, Intel has
 15 spent the past three months negotiating a uniform date by which Intel would answer or otherwise
 16 respond to the respective complaints in the related actions. *Id.* ¶ 5. Because of the pending
 17 MDL treatment, it was essential to link the extension to the decision by the JPML whether, and
 18 where, to consolidate these related actions. *Id.* Specifically, Intel sought a response date of 60
 19 days after transfer of the above-styled action pursuant to any motion to coordinate or consolidate
 20 pre-trial proceedings per 28 U.S.C. §1407 or, in the alternative, 45 days after any such motion
 21 has been denied. Ripley Decl. ¶ 5. The 60 days permits the transfer of the necessary case files to
 22 the MDL Court, as well as the opportunity for the MDL Court to consider the need for a
 23 consolidated class complaint. *Id.*

24 _____
 25 ¹ This notice of related tag-along actions references 67 of the related actions. At the time
 26 Intel filed this notice of tag-along actions, it had not been served in the other cases.

Subsequent to receiving service of the complaint on August 23, 2005, Intel conferred with plaintiff, pursuant to Civil L.R. 6-3(a)(2), regarding a similar extension. *See Ripley Decl. ¶ 7.* On September 9, 2005, one business day before Intel's original response date, plaintiff advised Intel that, although he would agree to an extension to a date certain, he could not agree to any extension linked to the decision by the JPML whether to include *Rush* and other actions in MDL 1717. *Id.* On September 12, 2005, the parties stipulated to an extension of time for Intel to respond to the complaint up to and including October 12, 2005; it was the parties' understanding that Intel would use the 30 days to file this contest motion for an extension identical to that entered in the related MDL cases. *Id.*

Since September 12, 2005, Intel has conferred further with plaintiff regarding his willingness to agree to the extension that Intel seeks through this motion. *Id.* ¶ 8. Plaintiff's position remains unchanged; plaintiff will agree to an extension to a date certain, but opposes giving Intel any extension that is linked to the JPML's decision. *Id.* As a result, *Rush* and the three other related actions that have as their main counsel Strauss & Boies LLP² are the only actions that have not agreed to the uniform response date. *Id.* ¶ 6. Indeed, this extension has been entered in 21 of the 23 other related actions in this district³ and 40 related cases in other District Courts (primarily the District of Delaware). *Id.*

Intel will suffer substantial prejudice should the Court deny the requested enlargement of time in that its efforts to organize this welter of federal actions and provide a foundation for litigating these related actions on a uniform schedule would be seriously compromised. *Id.* ¶ 9.

² Straus & Boies LLP is counsel for plaintiffs in *Rush* as well as the following three related cases against Intel: *Jose Juan et al v. Intel Corp.*, No. C-05-3271 (N.D. Cal., filed August 10, 2005); *Dressed To Kill Custom Draperies, LLC v. Intel Corp.*, No. C-05-3272 (N.D. Cal., filed August 10, 2005); and *Tracy Kinder et al v. Intel Corp.*, No. C-05-3273 (N.D. Cal., filed August 10, 2005).

³ Intel has not been served in the other two actions.

Without the uniform response date, Intel may be compelled to respond in this action well ahead of the response date for the other related actions. *Id.* This will result in needless duplicative effort; for example, the claims that Rush seeks to assert on behalf of District of Columbia residents were previously asserted in fifty (50) of the related actions. *Id.* Such a result would undermine a fundamental purpose of coordinating pre-trial proceedings in an MDL, which neither plaintiff nor any of the other purported class actions oppose. Moreover, since it is likely that the MDL court will direct the filing of a consolidated class complaint, any response that Intel would have to file should this Court deny the extension would soon become moot.

Conversely, the requested extension would not materially affect the schedule in this case. The JPML heard argument on the pending MDL petition on September 29, 2005. *Id.* ¶ 10. Thus, it is likely that this case will be transferred to the MDL Court before this litigation can advance in a substantive manner.⁴

Finally, the extension to a date certain, as plaintiff proposed, is inefficient because the parties cannot accurately predict when the JPML will issue its decision. Consequently, an extension to a date certain — unless that date is a minimum of several months — will likely require the parties to return for additional extensions or risk voiding the cooperative efforts in other actions. *Id.* ¶ 8.

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⁴ Upon receiving the conditional transfer order, this Court must transfer the “complete original file.” MULTIDISTRICT LITIGATION RULE 1.6(a).

1 Wherefore, Intel respectfully requests that this Court extend Intel's response date
2 commensurate with the identical extensions entered in the other MDL actions, in the form of the
3 accompanying proposed order. Intel does not believe that a hearing is necessary on this issue,
4 and — given that the current response date is October 12, 2005 — Intel respectfully requests that
5 this motion be considered on an expedited basis. In support of this motion, Intel relies on the
6 accompanying Declaration of Richard A. Ripley, the attachments thereto, and the docket in this
7 case and the related cases in this District.

8
9 Respectfully submitted,

10 DATED: October __, 2005

11 Bingham McCutchen LLP

12
13 By: 
14 DAVID A. BALABANIAN
15 Attorneys for Defendant
16 Intel Corporation
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1 Bingham McCutchen LLP
2 DAVID M. BALABANIAN (SBN 37368)
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9 Attorneys for Defendant
10 Intel Corporation

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 EDWARD RUSH, on behalf of himself and all
15 others similarly situated,

16 Plaintiff,

17 v.

18 INTEL CORPORATION, a Delaware
19 corporation,

20 Defendant.

No. C-05-3277

DECLARATION OF
RICHARD A. RIPLEY

21 I, Richard A. Ripley, declare as follows:

22 1. I am over the age of eighteen and competent to give testimony. The facts in this
23 declaration are based upon my personal knowledge.

24 2. I am a partner with the law firm of Bingham McCutchen, LLP, counsel of record
25 for Defendant Intel Corporation ("Intel") in *Rush et al. v. Intel Corporation*, No. 05-3271 ("*Rush*").

26 3. *Rush* is one of over 70 federal purported class actions ("related actions")—27 of
which have been filed in this district—all of which allege that Intel has violated federal and state
antitrust laws. Plaintiff filed this complaint on August 10, 2005, making it the 62nd federal action

DECLARATION OF RICHARD A. RIPLEY

1 and the 27th filed in this district. *Rush* is one of four related actions in this district that have the
2 law firm of Straus & Boies LLP as their main outside counsel.

3 4. Attached hereto as EXHIBIT A is a true and correct copy of the MDL petition
4 filed by plaintiffs in *Brauch et al. v. Intel Corp.*, No. C-02-2743 (N.D. Cal.) to coordinate or
5 consolidate pre-trial proceedings of the related actions pursuant to 28 U.S.C. §1407. This
6 petition was filed on July 14, 2005, nearly one month before *Rush* commenced. On September
7 16, 2005, Intel identified *Rush* as a tag-along action to the MDL petition. Attached hereto as
8 EXHIBIT B is a true and correct copy of the notice of related, tag-along actions filed before the
9 Judicial Panel on Multidistrict Litigation (‘JPML’) identifying *Rush* as a related action. Neither
10 Plaintiff Edward Rush nor any of the other class plaintiffs has objected to this designation.

11 5. Over the past three months, I have negotiated with counsel in the related actions
12 extensions of time for Intel’s responses to these various complaints that would result in a uniform
13 response date. A uniform response date is a critical step in treating all related actions equally
14 and ensuring that each was on the same track. Specifically, I obtained agreements to extend
15 Intel’s response date in each of the related actions to 60 days after transfer of the case pursuant to
16 the pending MDL petition or, in the alternative, 45 days after the JPML denied the motion.
17 Because of the pending MDL treatment and the various service dates in the related actions, it
18 was essential to link the extension to the JPML’s decision whether, and where, to consolidate
19 these related actions in order to assure a uniform response date. The 60 days permits the transfer
20 of the necessary case files to the MDL Court, as well as the opportunity for the MDL Court to
21 consider the need for a consolidated class complaint.

22 6. Pursuant to Civil L.R. 6-2, Intel obtained this uniform extension in 21 related
23 actions in the Northern District of California, and 40 related cases in other District Courts
24 (primarily the District of Delaware). A true and correct copy of one such stipulation is attached
25 hereto as EXHIBIT C for illustrative purposes. Of the related actions in which Intel has been
26 served, only the four Straus & Boies LLP actions have rejected this uniform extension.

1 7. Shortly after Intel received service of *Rush* on August 23, 2005, I contacted Mr.
2 Timothy D. Battin of Straus & Boies, pursuant to Civil L.R. 6-3(a)(2), to determine whether the
3 four Straus & Boies cases, including *Rush*, would agree to the uniform extension. During our
4 conversations, I advised Mr. Battin that Intel was obtaining the identical extension in the related
5 actions. Mr. Battin stated that he would confer with his co-counsel and call me back. On
6 September 9, 2005, Mr. Battin advised me that although he would agree to an extension to a date
7 certain, he would not agree to any extension linked to the JPML's decision. Since this
8 conversation occurred just one business day before Intel's original response date in *Rush*, Mr.
9 Battin agreed to a 30-day extension so that Intel could present the court with a motion to enter
10 the uniform response date. The parties filed that stipulated extension on September 12, 2005.

11 8. Since September 12, 2005, I have conferred further with Mr. Battin by email
12 regarding his client's willingness to agree to the uniform extension. Plaintiff's position remains
13 unchanged; plaintiff will agree to an extension to a date certain, but opposes giving Intel any
14 extension that is linked to the JPML's decision. An extension to a date certain, however, is
15 inefficient because the parties cannot accurately predict when the JPML will issue its decision.
16 Consequently, an extension to a date certain—unless that date is at least several months from now—
17 will likely require the parties to return for additional extensions or risk voiding the extensive
18 cooperative efforts in the other related actions to share a single response date.

19 9. In the absence of the requested extension, Intel faces substantial prejudice.
20 Specifically, Intel's efforts to organize this welter of federal actions and provide a foundation for
21 litigating these related actions on a uniform schedule would be seriously compromised. Intel
22 will be compelled to file a response in this action well ahead of the date that Intel will need to
23 respond to any of the other related actions. This will result in needless, duplicative effort; for
24 example, the claims that *Rush* seeks to assert on behalf of District of Columbia residents were
25 previously asserted in fifty (50) other related actions. Such a result would undermine a
26 fundamental purpose of coordinating pre-trial proceedings in an MDL, which neither plaintiff

1 nor any of the other putative class action plaintiffs oppose.

2 10. Conversely, the requested uniform extension would not materially affect the
3 schedule in this case. The JPML heard argument on the pending MDL petition on September 29,
4 2005. Thus, it is likely that this case will be transferred to the MDL Court before this litigation
5 can advance in a substantive manner beyond Intel filing its response to the complaint.

6 I declare under penalty of perjury that the foregoing is true and correct to the best of my
7 knowledge.

8
9 DATED: October 3, 2005

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12 Richard A. Ripley
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JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

JUL 14 2005

FILED
CLERK'S OFFICE

MDL 1717

PLEADING NO. -1

**BEFORE THE JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

IN RE INTEL MARKET PRACTICES
ANTITRUST LITIGATION

MDL DOCKET NO. _____

**PLAINTIFFS MICHAEL BRAUCH AND ANDREW MEIMES' MOTION TO
TRANSFER AND COORDINATE OR CONSOLIDATE FOR PRETRIAL
PROCEEDINGS IN THE NORTHERN DISTRICT OF CALIFORNIA
PURSUANT TO 28 U.S.C. § 1407**

Plaintiffs Michael Brauch and Andrew Meimes ("Plaintiffs") respectfully move the Judicial Panel on Multidistrict Litigation ("JPML" or "Panel") for an Order, pursuant to 28 U.S.C. § 1407, that would accomplish the following.

First, Plaintiffs ask the JPML to transfer four actions currently pending in the United States District Court for the District of Delaware, as well as any cases that may subsequently be filed asserting similar or related claims, to the United States District Court for the Northern District of California, San Francisco Division. The actions currently pending in the District of Delaware are as follows: (1) *Advanced Micro Devices, Inc. v. Intel Corp., et al.* No. 1:05-cv-00441 (D. Del., filed June 27, 2005); (2) *Kidwell, et al. v. Intel Corp.* No.

1:05-cv-00470 (D. Del., filed July 6, 2005); (3) *Rainwater, et al. v. Intel Corp.*, No. 1:05-cv-00473 (D. Del., filed July 6, 2005); and (4) *Kravitz, et al. v. Intel Corp.*, No. 1:05-cv-476 (D. Del., filed July 8, 2005).

Second, Plaintiffs ask the JPML to consolidate the above four proceedings with the ten actions that are currently pending in the United States District Court for the Northern District of California. As of July 11, 2005, Plaintiffs are aware of the following actions pending in the Northern District: (1) *Brauch, et al. v. Intel Corp.*, No. C:05-2743 (BZ) (N.D. Cal., filed July 5, 2005); (2) *Konieczka v. Intel Corp.*, No. C:05-2700 (MHP) (N.D. Cal., filed June 30, 2005); (3) *Prohias v. Intel Corp.*, No. C:05-2699 (JL) (N.D. Cal., filed June 30, 2005); (4) *Niehaus v. Intel Corp.*, No. C:05-2720 (JCS) (N.D. Cal., filed July 1, 2005); (5) *Hamilton v. Intel Corp.*, No. C:05-2721 (JCS) (N.D. Cal., filed July 1, 2005); (6) *Baxley v. Intel Corp.*, No. C:05-2758 (EMC) (N.D. Cal., filed July 6, 2005); (7) *Lipton v. Intel Corp.*, No. C:05-2669 (MHP) (N.D. Cal., filed June 29, 2005); (8) *Frazier, et al. v. Intel Corp.*, No. C:05-2813 (N.D. Cal., filed July 11, 2005); (9) *Dickerson v. Intel Corp.*, No. C:05-2818 (JL) (N.D. Cal., filed July 11, 2005); and (10) *The Harman Press v. Intel Corp.*, (this case was filed late in the day therefore no number has been assigned by the court as of the date of this filing) (N.D. Cal., filed July 11, 2005). In support of their motion for transfer and consolidation, Plaintiffs state as follows.

1. The actions for which transfer and consolidation are proposed arise out of the same or similar illegal antitrust conduct and allege substantially similar claims. One of the actions was brought by Advanced Micro Devices ("AMD"), a competitor of defendant Intel Corporation ("Intel"). The remaining thirteen actions are brought on behalf of consumers who purchased Intel microprocessor computer chips ("Intel Chips"). All fourteen actions allege that Intel and its controlled subsidiaries and/or affiliates illegally maintained its monopoly power in the relevant microprocessor market and/or that Intel conspired to fix, raise, maintain and/or stabilize prices for Intel Chips sold in the United States and elsewhere. Intel manufactures, distributes, advertises and sells Intel Chips throughout the United States and the world.

2. Plaintiffs propose that the four actions pending in the District of Delaware be consolidated with the ten actions currently pending in the Northern District of California.

3. All fourteen actions arise out of a common core of factual allegations, namely, that Intel illegally maintained its monopoly power in the relevant microprocessor market and/or engaged in a combination and conspiracy to suppress and eliminate competition in that market by fixing the prices of and/or allocating markets for Intel Chips sold in the United States and elsewhere, thus overcharging Original Equipment Manufacturer purchasers and consumers for prices paid for Intel Chips during the relevant time period.

4. The centralization of these actions in a single judicial district for consolidated pretrial proceedings will promote the just and efficient conduct of these actions, will serve the convenience of all parties and witnesses, and will promote the interest of justice because all fourteen actions involve the same or similar factual and legal issues.

5. Consolidation of the actions before a single court will conserve judicial resources, reduce litigation costs, prevent potentially inconsistent pretrial rulings, eliminate duplicative discovery, and permit the cases to proceed to trial more efficiently.

6. All fourteen actions are in the very early stages of litigation; no responsive pleadings have been filed nor has any discovery been conducted.

7. The proposed transfer and consolidation in the Northern District of California “will be for the convenience of parties and witnesses and will promote the just and efficient conduct” of these actions because it is expected that for each Plaintiff in each of the fourteen actions, counsel will take discovery of the same witnesses and documents to prove the same or similar conspiracy or conduct.

8. Furthermore: (a) the majority of the cases (ten out of the fourteen cases) were filed in the Northern District of California; (b) the Northern District of California has the resources and judicial expertise to properly conduct this case; (c) Intel’s principal place of business is located in the Northern District of California; (d) AMD’s principal place of business is located in the Northern District of California; (e) likely witnesses and documentary

evidence are located in the Northern District; (f) the Court is centrally located to all parties; and (g) docket conditions favor the Northern District of California over the District of Delaware.

9. Plaintiffs' motion is based on the accompanying memorandum of law, the filed pleadings and papers, and other materials that may be presented to the Panel before or at the time of any hearing in this matter.

WHEREFORE, Plaintiffs respectfully request that the Panel order that the four actions pending in the District of Delaware, as well as any cases that may be subsequently filed asserting related or similar claims, be transferred to the Northern District of California, San Francisco Division for consolidated and coordinated pretrial proceedings.

Dated: July 11, 2005

Respectfully submitted,

By: 

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Attorneys for Plaintiffs Michael Brauch and
Andrew Meimes

CERTIFICATE OF SERVICE

I, Alex C. Turan, on behalf of Plaintiffs Michael Brauch and Andrew Meimes, hereby certify that true and correct copies of the following documents were served on July 11, 2005, via U.S. mail on the court, counsel and/or parties of record listed below:

- Plaintiffs Michael Brauch and Andrew Meimes' Motion to Transfer and Coordinate or Consolidate for Pretrial Proceedings in the Northern District of California Pursuant to 28 U.S.C. § 1407;
- Memorandum of Points and Authorities in Support of Plaintiffs Michael Brauch and Andrew Meimes' Motion to Transfer and Coordinate or Consolidate for Pretrial Proceedings in the Northern District of California Pursuant to 28 U.S.C. § 1407;
- Exhibits to Plaintiffs Michael Brauch and Andrew Meimes' Motion to Transfer and Coordinate or Consolidate for Pretrial Proceedings in the Northern District of California Pursuant to 28 U.S.C. § 1407;
- Plaintiffs Michael Brauch and Andrew Meimes' Reasons Why Oral Argument Should Be Heard;
- Certificate of Service;
- Cover letter to Clerk, United States District Court for the Northern District of California; and
- Cover letter to Clerk, United States District Court for the District of Delaware.

COURTS

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U.S. District Court
Northern District of California
450 Golden Gate Avenue, 16th Floor
San Francisco, CA 94102
Telephone: (415) 522-2000

Clerk of Court
U.S. District Court
District of Delaware
J. Caleb Boggs Federal Building
844 North King Street
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DEFENDANT

Intel Corporation
c/o CT Corporation System
818 West Seventh Street
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September 16, 2005

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Re: In Re Microprocessor Antitrust Litigation, MDL-1717

Dear Clerk of the Panel:

Pursuant to Rules 7.2(i) and 7.5(e) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, Intel is filing today a notice of 41 potential tag-along actions pending in various federal courts. The MDL petition in the above captioned matter has been set for hearing by the Panel on September 29, 2005, in Asheville, North Carolina.

Enclosed please find a courtesy copy of the complaints filed in these 41 related actions as well as the 27 related actions previously noticed to this Panel.

Sincerely,

original signed

Richard A. Ripley
Counsel for Intel Corporation

Enclosures

cc: Attached Service List

**BEFORE THE JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

In re Microprocessor Antitrust Litigation

MDL Docket No. 1717

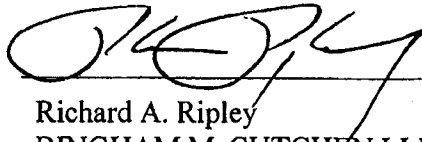
NOTICE OF RELATED, TAG-ALONG ACTIONS

Pursuant to Rules 7.2(i) and 7.5(e) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, Defendant Intel Corporation ("Intel") hereby notify the Clerk of the Panel of 41 tag-along actions. The actions are listed in the attached table.

Defendant Intel respectfully requests these actions be consolidated with the other noticed actions in the above captioned MDL, still under consideration by this Panel and set for a hearing on September 29, 2005.

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JUDICIAL PANEL ON
MULTIDISTRICT
LITIGATION

DATED: September 16, 2005



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Attorneys for Defendant
INTEL CORPORATION for all putative class
actions

ATTACHMENT

CASE NAME	DISTRICT COURT	DIVISION	CASE NUMBER	ASSIGNED JUDGE
Ian Walker, individually and on behalf of all others similarly situated, v. Intel Corporation	California	Northern	C-05-2882	Hon. Marilyn H. Patel
Peter Jon Naigow, individually and on behalf of all others similarly situated v. Intel Corporation	California	Northern	C-05-2898	Hon. Marilyn H. Patel
Kevin Stoltz , individually and on behalf of all others similarly situated, v. Intel Corporation	California	Northern	C-05-2897	Hon. Marilyn H. Patel
Patrick Hewson, individually and on behalf of all others similarly situated, v. Intel Corporation	California	Northern	C-05-2916	Hon. Marilyn H. Patel
Lawrence Lang on behalf of himself and all others similarly situated v. Intel Corporation	California	Northern	C-05-2957	Hon. Marilyn H. Patel
Trotter-Vogel Realty, Inc. d/b/a Prudential California Realty, individually, and on behalf of all those similarly situated, v. Intel Corporation	California	Northern	C-05-3028	Hon. Marilyn H. Patel
Karol Juskiewicz, on behalf of himself and all others similarly situated, v. Intel Corporation	California	Northern	C-05-3094	Hon. Jeffery S. White
Athan Uwakwe, d/b/a/ Tom Cyp Computers, individually, and on behalf of all those similarly situated, v. Intel Corporation	California	Northern	C-05-3197	Hon. Marilyn H. Patel

CASE NAME	DISTRICT COURT	DIVISION	CASE NUMBER	ASSIGNED JUDGE
Jose Juan, on behalf of himself and all others similarly situated, v. Intel Corporation	California	Northern	C-05-3271	Hon. Edward M. Chen
Dressed to Kill Draperies, LLC, and all others similarly situated, v. Intel Corporation	California	Northern	C-05-3272	Hon. James Larson
Tracy Kinder, on behalf of himself and all others similarly situated, v. Intel Corporation	California	Northern	C-05-3273	Hon. Sandra Brown Armstrong
Edward Rush on behalf of himself and all others similarly situated, v. Intel Corporation	California	Northern	C-05-3277	Hon. Elizabeth D. Laporte
Christian Ambrososo on behalf of himself and all others similarly situated v. Intel Corporation	Delaware		1:05-cv-00505	Hon. Joseph J. Farnan, Jr.
Michael E. Ludt on behalf of himself and all others similarly situated v. Intel Corporation	Delaware		1:05-cv-00510	Hon. Joseph J. Farnan, Jr.
Paul C. Czysz, on behalf of himself and all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00509	Hon. Joseph J. Farnan, Jr.
Elizabeth B. Baran on behalf of herself and all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00508	Hon. Joseph J. Farnan, Jr.
Ficor Acquisition Co. LLC, Richard Caplan; Maria Pilar Salgado; Paula Nardella; Nancy Wolfe; Leslie March;	Delaware		1:05-cv-00515	Hon. Joseph J. Farnan, Jr.

CASE NAME	DISTRICT COURT	DIVISION	CASE NUMBER	ASSIGNED JUDGE
Tom Hobbs; Andrew Marcus; Virginia Deering, on their own behalves and on behalf of all others similarly situated v. Intel Corporation				
HP Consulting Services Inc, on behalf of itself and all others similarly situated v. Intel Corporation	Delaware		1:05-cv-00521	Hon. Joseph J. Farnan, Jr.
Fairmont Orthopedics & Sports Medicine, P.A., on behalf of itself and all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00519	Hon. Joseph J. Farnan, Jr.
Carrol Cowan Leonard Lorenzo; Russell Dennis. individually and on behalf of all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00522	Hon. Joseph J. Farnan, Jr.
Law Offices of Kwasi Asiedu, on behalf of itself and all others similarly situated v. Intel Corporation	Delaware		1:05-cv-00520	Hon. Joseph J. Farnan, Jr.
Lena K. Manyin and Jason Craig, on their own behalves and on behalf of all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00526	Hon. Joseph J. Farnan, Jr.
Joseph Samuel Cone, on behalf of himself and all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00531	Hon. Joseph J. Farnan, Jr.
Jerome Feitelberg, on behalf of	Delaware		1:05-cv-00532	Hon. Joseph J. Farnan, Jr.

CASE NAME	DISTRICT COURT	DIVISION	CASE NUMBER	ASSIGNED JUDGE
himself and all others similarly situated, v. Intel Corporation				
Robin S. Weeth, on behalf of himself and all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00533	Hon. Joseph J. Faman, Jr.
Melinda Harr, D.D.S., P.C. on behalf of itself and all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00537	Hon. Joseph J. Faman, Jr.
Andrew S. Cohn, on behalf of himself and all others similarly situated v. Intel Corporation	Delaware		1:05-cv-00539	Hon. Joseph J. Faman, Jr.
Maria Griffin, on behalf of herself and all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00540	Hon. Joseph J. Faman, Jr.
Henry Kornegay, on behalf of himself and all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00541	Hon. Joseph J. Faman, Jr.
Paul Ramos, on behalf of himself and all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00544	Hon. Joseph J. Faman, Jr.
Bergerson & Associates, Inc., on behalf of himself and all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00547	Hon. Joseph J. Faman, Jr.
David Arnold, on behalf of himself and all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00554	Hon. Joseph J. Faman, Jr.

CASE NAME	DISTRICT COURT	DIVISION	CASE NUMBER	ASSIGNED JUDGE
Lee Pines, on behalf of himself and all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00560	Hon. Joseph J. Farnan, Jr.
Stuart Munson, on behalf of himself and all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00558	Hon. Joseph J. Farnan, Jr.
Phillip Boeding, on behalf of himself and all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00557	Hon. Joseph J. Farnan, Jr.
Angel Genese Gideon Elliot Nir Goldman, on behalf of themselves and all others similarly situated, v. Intel Corporation	Delaware		1:05-cv-00556	Hon. Joseph J. Farnan, Jr.
Damon DiMarco individually and on behalf of all others similarly situated v. Intel Corporation	Delaware		1:05-cv-00627	Hon. Joseph J. Farnan, Jr.
Justin Suarez on behalf of himself and all others similarly situated, v. Intel Corporation	California	Southern	05-CV-1507	Hon. Thomas J. Whelan
Nathaniel Schwartz, individually and on behalf of all others similarly situated v. Intel Corporation	Florida	Southern	05-22262	Hon. Jose E. Martinez
Andrew Armbrister and Melissa Armbrister, on behalf of themselves and all others similarly situated, v. Intel Corporation	Tennessee	Eastern	2:05-cv-212	Hon. J. Ronnie Greer

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2005 SEP 13 P 3

JUDICIAL PANEL
MULTIDISTRICT
LITIGATION

**BEFORE THE JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

In re Microprocessor Antitrust Litigation

MDL Docket No. 1717

AMENDED PROOF OF SERVICE

PROOF OF SERVICE

I am over eighteen years of age, not a party in this action, and employed in 0 County, District of Columbia at 1120 20th Street, NW, Suite 800, Washington, District of Columbia 20036-3406. I am readily familiar with the practice of this office for collection and processing of correspondence for mail delivery, and they are deposited that same day in the ordinary course of business.

On September 13, 2005, I served the attached to the following entities:

NOTICE OF PRESENTATION OR WAIVER OF ORAL ARGUMENT

- ☐ (BY FAX) by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☒ (BY MAIL) by causing a true and correct copy of the above to be placed in the United States Mail at Washington, District of Columbia in sealed envelope(s) with postage prepaid, addressed as set forth below. I am readily familiar with this law firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence is deposited with the United States Postal Service the same day it is left for collection and processing in the ordinary course of business.
- ☐ (EXPRESS MAIL/OVERNIGHT DELIVERY) by causing a true and correct copy of the document(s) listed above to be delivered by _____ in sealed envelope(s) with all fees prepaid at the address(es) set forth below.
- ☐ (PERSONAL SERVICE) by causing a true and correct copy of the above documents to be hand delivered in sealed envelope(s) with all fees fully paid to the person(s) at the address(es) set forth below.

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*Brauch, and Meimes v. Intel Corp.,
Allanoff, et al. v. Intel Corp., Lazio
Family Prods., et al. v. Intel Corp.,
Roach v. Intel Corp.*

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*Stoltz, et al. v. Intel Corp., Naigow, et
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*AMD, AMD International Sales &
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*Volden, et al. v. Intel Corp., Ludt v.
Intel Corp., Czysz v. Intel Corp.,
Baran v. Intel Corp., Cowan, et al. v.
Intel Corp., Ficor Acquisition Co. LLC
d/b/a Mills & Greer Sporting Goods;
Richard Caplan; Maria Pilar
Salgado; Paula Nardella; Nancy
Wolfe; Leslie March; Tom Hobbs;
Andrew Marcus; Virginia Deering v.
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Dickerson v. Intel Corp.

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Frazier, Frazier and Weiner v. Intel Corp.

The Harman Press, et al. v. Intel Corp., Shanghai 1930 Restaurant Partners, LP, et al. v. Intel Corp., Major League Softball, Inc. v. Intel Corp.

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*Paul v. Intel Corp., Fairmont
Orthopedics & Sports Medicine P.A.
v. Intel Corp., Feitelberg, et al. v. Intel
Corp., Harr v. Intel Corp., Ambruoso
v. Intel Corp., HP Consulting Services,
Inc. v. Intel Corp., Law Office of
Kwasi Asiedu v. Intel Corp., Weeth v.
Intel Corp., Kornegay v. Intel Corp.,
Bergerson & Associates, Inc. v. Intel
Corp., Salpeter, et al. v. Intel Corp.,
Boeding v. Intel Corp., Munson v.
Intel Corp., Pines v. Intel Corp.*

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*Ruccolo v. Intel Corp., Manyin, et al.
v. Intel Corp., Cohn v. Intel Corp.,
Griffin v. Intel Corp., Paul Ramos v.
Intel Corp.*

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*Simon v. Intel Corp., Chacon and Russ
v. Intel Corp., Cone v. Intel Corp.*

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*Trotter-Vogel Realty, et al. v. Intel
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Justin Suarez v. Intel Corp.

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*Hamilton v. Intel Corp., Lipton, and
Thibedeau v. Intel Corp., Niehaus v.
Intel Corp., Prohias, et al v. Intel
Corp., Konieczka v. Intel Corp.,
Schwartz v. Intel*

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Baxley v. Intel Corp.

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*Kidwell, Maita, JWRE Inc., Moeller,
and Harms v. Intel Corp., Rainwater,
Chapman, Reeder, and Yaco v. Intel
Corp.*

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*Juan v. Intel Corp., Dressed to Kill
Draperies, LLC v. Intel Corp., Kinder
v. Intel Corp., Rush v. Intel Corp.*

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Arnold v. Intel Corp.

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Genese, et al. v. Intel Corp.

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Daniel Hume.
David Kovel
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Kravitz and Allison v. Intel

Schmittinger & Rodriguez, P.A.

Scott E. Chambers
Jeffrey J. Clark
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P.O. Box 497
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Arnold v. Intel Corp.

**The Law Offices of Randy M.
Weber, P.A.**

777 Brickell Avenue
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Arnold v. Intel Corp.

Barrack Rodos & Bacine

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Facsimile: (215) 963-0838

Simon v. Intel

Trujillo Rodriguez & Richards LLP

Ira Neil Richards
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Philadelphia, PA 19103
Telephone: (215) 731-9004

Chacon and Russ v. Intel

PROOF OF SERVICE

Mager & Goldstein LLP

Jayne A. Goldstein
2825 University Drive, Suite 350
Coral Springs, FL 33065
Telephone: (954) 341-0844

*Ficor Acquisition Co. LLC d/b/a Mills
& Greer Sporting Goods; Richard
Caplan; Maria Pilar Salgado; Paula
Nardella; Nancy Wolfe; Leslie March;
Tom Hobbs; Andrew Marcus; Virginia
Deering v. Intel Corp.,*

Finkelstein, Thompson & Loughran

Shannon P. Cereghimo
Ali Oromchian
Christine G. Pedigo
601 Montgomery Street, Suite 665
San Francisco, CA 94111

Walker v. Intel Corp.

Ross, Dixon & Bell LLP

Roy M. Bell
Jason S. Hartley
550 West B. Street, suite 400
San Diego, CA 92101
Telephone: (619) 235-4040

Gabriella Herroeder-Perras v. Intel

Ball & Scott

Gordon Ball
550 W. Main Ave., Ste. 750
Knoxville, TN, 37902

Armbrister v. Intel Corp.

I declare that I am employed in the office of a member of the bar of this District of Columbia at whose direction the service was made and that this declaration was executed on September 13, 2005, at Washington, District of Columbia.


E. Thanh Knudson

PROOF OF SERVICE

Bingham McCutchen LLP
DAVID M. BALABANIAN (SBN 37368)
CHRISTOPHER B. HOCKETT (SBN 121539)
JOY K. FUYUNO (SBN 193890)
Three Embarcadero Center
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Telephone: (415) 393-2000
Facsimile: (415) 393-2286

Attorneys for Defendant
Intel Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

LAWRENCE LANG, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

INTEL CORPORATION, a Delaware
corporation,

Defendant.

No. C-05-2957-MHP

STIPULATION AND [PROPOSED]
ORDER TO CONTINUE FILING DATE
FOR DEFENDANT'S RESPONSE TO
PLAINTIFF'S COMPLAINT

IT IS STIPULATED BY AND BETWEEN THE PARTIES, THROUGH THEIR
COUNSEL AS FOLLOWS:

Pursuant to Civil Local Rule 6-2, Plaintiff Lawrence Lang and Defendant Intel Corporation hereby stipulate that Intel Corporation's response to Plaintiff's complaint shall be due either 60 days after transfer of the above captioned case pursuant to any motion to coordinate or consolidate pre-trial proceedings per 28 U.S.C. Section 1407 or, in the alternative, 45 days after any such motion has been denied. The parties request this extension of time to answer or otherwise respond because the plaintiffs in *Brauch, et al. v. Intel Corp.*, No. C 05-2743 (BZ)

STIPULATION AND [PROPOSED] ORDER TO CONTINUE RESPONSE DATE

(N.D. Cal., filed July 5, 2005), a related matter, have filed a petition to coordinate or consolidate pre-trial proceedings per 28 U.S.C. Section 1407, and the above-styled action has been identified as a related action to that petition. As a result the outcome of the pending petition will impact significantly the schedule of this case.

This is the first stipulation between the parties. Because this litigation has just begun, granting such a stipulation will not have any negative impact on the schedule of this case.

IT IS HEREBY STIPULATED.
DATED: August 11, 2005

Bingham McCutchen LLP

By: /s/ Joy K. Fuyuno
JOY K. FUYUNO
Attorneys for Defendant
Intel Corporation

DATED: August 16, 2005

Trump, Alioto, Trump and Prescott

By: /s/ Mario N. Alioto
MARIO N. ALIOTO
Attorneys for Plaintiff
Lawrence Lang

[PROPOSED] ORDER TO CONTINUE DEFENDANT'S RESPONSE DATE

IT IS HEREBY ORDERED that Defendant Intel Corporation's response to Plaintiff's complaint shall be due either 60 days after transfer of the above captioned case pursuant to any motion to coordinate or consolidate pre-trial proceedings per 28 U.S.C. Section 1407, or, in the alternative, 45 days after any such motion has been denied.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: August 19, 2005



Honorable Marilyn H. Patel
United States District Judge

1 Bingham McCutchen LLP
DAVID M. BALABANIAN (SBN 37368)
2 CHRISTOPHER B. HOCKETT (SBN 121539)
JOY K. FUYUNO (SBN 193890)
3 Three Embarcadero Center
San Francisco, CA 94111-4067
4 Telephone: (415) 393-2000
Facsimile: (415) 393-2286
5
6 Attorneys for Defendant
Intel Corporation
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
11

12 EDWARD RUSH, on behalf of himself and all
others similarly situated,
13 Plaintiff,
14 v.
15 INTEL CORPORATION,
16 Defendant.

No. C-05-3277 (MHP)

[PROPOSED] ORDER TO ENLARGE
DEFENDANT'S RESPONSE DATE

17
18 IT IS HEREBY ORDERED that Defendant Intel Corporation's response to
19 Plaintiff's complaint shall be due either 60 days after transfer of the above-captioned case
20 pursuant to any motion to coordinate or consolidate pre-trial proceedings per 28 U.S.C. Section
21 1407, or, in the alternative, 45 days after any such motion has been denied.

22 DATED: October __, 2005

Honorable Marilyn H. Patel

Case No. C-05-3277 (MHP)

[PROPOSED] ORDER TO ENLARGE DEFENDANT'S RESPONSE DATE

Bingham McCutchen LLP
DAVID M. BALABANIAN (SBN 37368)
CHRISTOPHER B. HOCKETT (SBN 121539)
JOY K. FUYUNO (SBN 193890)
Three Embarcadero Center
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Telephone: (415) 393-2000
Facsimile: (415) 393-2286

Attorneys for Defendant
Intel Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EDWARD RUSH, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

INTEL CORPORATION,

Defendant.

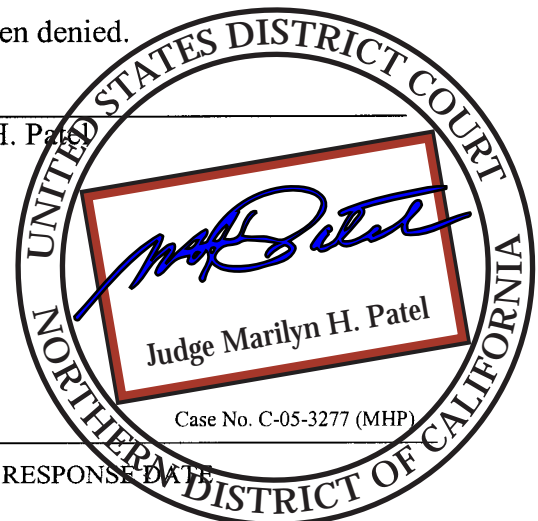
No. C-05-3277 (MHP)

[PROPOSED] ORDER TO ENLARGE
DEFENDANT'S RESPONSE DATE

IT IS HEREBY ORDERED that Defendant Intel Corporation's response to
Plaintiff's complaint shall be due either 60 days after transfer of the above-captioned case
pursuant to any motion to coordinate or consolidate pre-trial proceedings per 28 U.S.C. Section
1407, or, in the alternative, 45 days after any such motion has been denied.

DATED: October __, 2005

Honorable Marilyn H. Patel



[PROPOSED] ORDER TO ENLARGE DEFENDANT'S RESPONSE DATE

BINGHAM McCUTCHEN LLP
DAVID M. BALABANIAN (SBN 37368)
CHRISTOPHER B. HOCKETT (SBN 121539)
JOY K. FUYUNO (SBN 193890)
Three Embarcadero Center
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Attorneys for Defendant
Intel Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EDWARD RUSH, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

INTEL CORPORATION, a Delaware
corporation,

Defendant.

No. C-05-3277-MHP

**STIPULATION AND [PROPOSED]
ORDER TO STAY DATES, EVENTS
AND DEADLINES PENDING THE
OUTCOME OF THE MOTION TO
TRANSFER AND COORDINATE OR
CONSOLIDATE PURSUANT TO
28 U.S.C. § 1407**

WHEREAS, on August 11, 2005, Plaintiff filed the instant action in the Northern
District of California (“Rush Action”);

WHEREAS, on or about July 11, 2005, the plaintiffs in *Brauch, et al. v. Intel
Corp.*, No. C 05-2743 (BZ) (N. D. Cal., filed July 5, 2005), a related matter, moved before the
Judicial Panel on Multi-District Litigation (“MDL”), to transfer and coordinate or consolidate for
pre-trial proceedings pursuant to 28 U.S.C. § 407 (“MDL Motion”), and the Rush Action has
been identified as a related action subject to that motion;

1 WHEREAS, on or about September 29, 2005, Judge Patel issued a Related Case
2 Order relating this case to an earlier filed case assigned to her, and canceling or staying certain
3 but not all dates, events and deadlines in the action;

4 WHEREAS, to date, a decision has not been rendered on the MDL Motion;

5 WHEREAS, the outcome of the MDL Motion will impact significantly the
6 schedule of this case;

7 THEREFORE, IT IS HEREBY STIPULATED, pursuant to Civil Local Rule 6-2,
8 by and among counsel for Plaintiff Rush, and counsel for Defendant Intel Corporation, that any
9 events, dates or deadlines set by the Local Rules or Federal Rules of Civil Procedure, including
10 the Local Rules for Alternative Dispute Resolution (“ADR Local Rules”) and Federal Rules of
11 Civil Procedure 16 and 26, and any deadlines established in any case management order
12 applicable to this case should be stayed pending the outcome of the aforementioned MDL
13 Motion; and

14 IT IS FURTHER STIPULATED by the aforementioned parties that if a case
15 management conference is rescheduled by the Court, the parties shall adjust the dates for any
16 conference, disclosures or reports required by the Local Rules or Federal Rules of Civil
17 Procedure, including the ADR Local Rules and Federal Rules of Civil Procedure 16 and 26
18 accordingly.

19 IT IS HEREBY STIPULATED.

20 Dated: November 1, 2005

DRUMMOND & ASSOCIATES

21 By: /s/ Donald F. Drummond
22 Donald F. Drummond
23 Attorneys for Plaintiff
24 Edward Rush
25
26

1 Dated: November 1, 2005

BINGHAM McCUTCHEN LLP

3 By: /s/ Joy K. Fuyuno
4 Joy K. Fuyuno
5 Attorneys for Defendant
Intel Corporation

6 **[PROPOSED] ORDER TO STAY DATES, EVENTS AND DEADLINES**
7 **PENDING THE OUTCOME OF THE MDL MOTION**

8 Any events, dates or deadlines set by the Local Rules or Federal Rules of Civil
9 Procedure, including the Local Rules for Alternative Dispute Resolution (“ADR Local Rules”)
10 and Federal Rules of Civil Procedure 16 and 26, and any deadlines established in any case
11 management order applicable to this case are hereby stayed pending the outcome of the motion
12 to transfer and coordinate or consolidate pursuant to 28 U.S.C. § 1407 (“MDL Motion”).

13 Upon the determination of the MDL Motion, if it is necessary for the Court to
14 reschedule a case management conference, the parties shall adjust the dates for any conference,
15 disclosures or reports required by the ADR Local Rules and Federal Rules of Civil Procedure 16
16 and 26 accordingly.

17 The parties shall notify the Clerk of Court within 10 days of the decision on the
18 MDL Motion.

19 **IT IS SO ORDERED.**

20 Dated: _____

21 Honorable Marilyn H. Patel
United States District Court Judge

FILED

NOV - 8 2005

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BINGHAM McCUTCHEN LLP
DAVID M. BALABANIAN (SBN 37368)
CHRISTOPHER B. HOCKETT (SBN 121539)
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Attorneys for Defendant
Intel Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EDWARD RUSH, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

INTEL CORPORATION, a Delaware
corporation,

Defendant.

No. C-05-3277-MHP

**STIPULATION AND [PROPOSED]
ORDER TO STAY DATES, EVENTS
AND DEADLINES PENDING THE
OUTCOME OF THE MOTION TO
TRANSFER AND COORDINATE OR
CONSOLIDATE PURSUANT TO
28 U.S.C. § 1407**

WHEREAS, on August 11, 2005, Plaintiff filed the instant action in the Northern
District of California ("Rush Action");

WHEREAS, on or about July 11, 2005, the plaintiffs in *Brauch, et al. v. Intel
Corp.*, No. C 05-2743 (BZ) (N. D. Cal., filed July 5, 2005), a related matter, moved before the
Judicial Panel on Multi-District Litigation ("MDL"), to transfer and coordinate or consolidate for
pre-trial proceedings pursuant to 28 U.S.C. § 407 ("MDL Motion"), and the Rush Action has
been identified as a related action subject to that motion;

1 WHEREAS, on or about September 29, 2005, Judge Patel issued a Related Case
2 Order relating this case to an earlier filed case assigned to her, and canceling or staying certain
3 but not all dates, events and deadlines in the action;

4 WHEREAS, to date, a decision has not been rendered on the MDL Motion;

5 WHEREAS, the outcome of the MDL Motion will impact significantly the
6 schedule of this case;

7 THEREFORE, IT IS HEREBY STIPULATED, pursuant to Civil Local Rule 6-2,
8 by and among counsel for Plaintiff Rush, and counsel for Defendant Intel Corporation, that any
9 events, dates or deadlines set by the Local Rules or Federal Rules of Civil Procedure, including
10 the Local Rules for Alternative Dispute Resolution ("ADR Local Rules") and Federal Rules of
11 Civil Procedure 16 and 26, and any deadlines established in any case management order
12 applicable to this case should be stayed pending the outcome of the aforementioned MDL
13 Motion; and

14 IT IS FURTHER STIPULATED by the aforementioned parties that if a case
15 management conference is rescheduled by the Court, the parties shall adjust the dates for any
16 conference, disclosures or reports required by the Local Rules or Federal Rules of Civil
17 Procedure, including the ADR Local Rules and Federal Rules of Civil Procedure 16 and 26
18 accordingly.

19 IT IS HEREBY STIPULATED.

20 Dated: November 1, 2005

DRUMMOND & ASSOCIATES

21

22 By: /s/ Donald F. Drummond
23 Donald F. Drummond
24 Attorneys for Plaintiff
25 Edward Rush
26

1 Dated: November 1, 2005

BINGHAM McCUTCHEN LLP

2
3 By: /s/ Joy K. Fuyuno
4 Joy K. Fuyuno
5 Attorneys for Defendant
Intel Corporation

6 **[PROPOSED] ORDER TO STAY DATES, EVENTS AND DEADLINES**
7 **PENDING THE OUTCOME OF THE MDL MOTION**

8 Any events, dates or deadlines set by the Local Rules or Federal Rules of Civil
9 Procedure, including the Local Rules for Alternative Dispute Resolution ("ADR Local Rules")
10 and Federal Rules of Civil Procedure 16 and 26, and any deadlines established in any case
11 management order applicable to this case are hereby stayed pending the outcome of the motion
12 to transfer and coordinate or consolidate pursuant to 28 U.S.C. § 1407 ("MDL Motion").

13 Upon the determination of the MDL Motion, if it is necessary for the Court to
14 reschedule a case management conference, the parties shall adjust the dates for any conference,
15 disclosures or reports required by the ADR Local Rules and Federal Rules of Civil Procedure 16
16 and 26 accordingly.

17 The parties shall notify the Clerk of Court within 10 days of the decision on the
18 MDL Motion.

19 **IT IS SO ORDERED.**

20 Dated: 11/7/05

21 
22 Honorable Marilyn H. Patel
23 United States District Court Judge
24
25
26

Joy K. Fuyuno
 Direct Phone: (415) 393-2386
 joy.fuyuno@bingham.com

November 17, 2005

Via E-Filing

The Honorable Marilyn H. Patel
 United States District Court, Northern District of California
 450 Golden Gate Avenue
 Courtroom 15, 18th Floor
 San Francisco, CA 94102

Bingham McCutchen LLP
 Three Embarcadero Center
 San Francisco, CA
 94111-4067

415.393.2000
 415.393.2286 fax

bingham.com

Boston
 Hartford
 London
 Los Angeles
 New York
 Orange County
 San Francisco
 Silicon Valley
 Tokyo
 Walnut Creek
 Washington

Re: (1) *Lipton v. Intel Corp.*, No. C-05-2669-MHP; (2) *Prohias v. Intel Corp.*, No. C-05-2699-MHP; (3) *Konieczka v. Intel Corp.*, No. C-05-2700-MHP; (4) *Niehaus v. Intel Corp.*, No. C-05-2720-MHP; (5) *Hamilton v. Intel Corp.*, No. C-05-2721-MHP; (6) *Brauch v. Intel Corp.*, No. C-05-2743-MHP; (7) *Baxley v. Intel Corp.*, No. C-05-2758-MHP; (8) *Frazier v. Intel Corp.*, No. C-05-2813-MHP; (9) *Dickerson v. Intel Corp.*, No. C-05-2818-MHP; (10) *The Harman Press v. Intel Corp.*, No. C-05-2823-MHP; (11) *Shanghai 1930 Restaurant v. Intel Corp.*, No. C-05-2830-MHP; (12) *Benjamin Allanoff v. Intel Corp.*, No. C-05-2834-MHP; (13) *Major League Softball, Inc. v. Intel Corp.*, No. C-05-2831-MHP; (14) *Lazio Family Products v. Intel Corp.*, No. C-05-2859-MHP; (15) *Law Offices Laurel Stanley & Wm. Cronin v. Intel Corp.*, No. C-05-2858-MHP; (16) *Walker v. Intel Corp.*, No. C-05-2882-MHP; (17) *Naigow v. Intel Corp.*, No. C-05-2898-MHP; (18) *Stoltz v. Intel Corp.*, No. C-05-2897-MHP; (19) *Hewson v. Intel Corp.*, No. C-05-2916-MHP; (20) *Lang v. Intel Corp.*, No. C-05-2957-MHP; (21) *Trotter-Vogel Realty, Inc. d/b/a Prudential California Realty v. Intel Corp.*, No. C-05-3028-MHP; (22) *Juskiewicz v. Intel Corp.*, No. C-05-3094-MHP; (23) *Uwakwe, d/b/a Tom Cyp Computers v. Intel Corp.*, No. C-05-3197-MHP; (24) *Juan v. Intel Corp.*, No. C-05-3271-MHP; (25) *Dressed to Kill Draperies, LLC, v. Intel Corp.*, No. C-05-3272-MHP; (26) *Kinder v. Intel Corp.*, No. C-05-3273-MHP; (27) *Rush v. Intel Corp.*, No. C-05-3277-MHP

Dear Judge Patel:

Per the stipulations and orders entered in the above captioned cases,¹ I am writing to notify the Court of the MDL transfer order entered November 8, 2005, a copy of which is

¹ Orders were entered in most of the cases staying all dates and requiring notification to the Court of entry of the MDL decision. Stipulations staying all dates pending the MDL decision were filed in all cases except one (*Dickerson*), in which the parties agreed to the terms of the stipulation but which was not yet signed when the MDL decision issued.

Hon. Marilyn H. Patel
November 17, 2005
Page 2

attached. The Judicial Panel on Multidistrict Litigation has ordered that the following 10 actions originally filed in the Northern District of California against Intel Corporation be centralized under 28 U.S.C. § 1407 in the District of Delaware as MDL 1717 (*In re Intel Corp. Microprocessor Antitrust Litigation*):

(1) *Lipton v. Intel Corp.*, No. C-05-2669-MHP; (2) *Prohias v. Intel Corp.*, No. C-05-2699-MHP; (3) *Konieczka v. Intel Corp.*, No. C-05-2700-MHP; (4) *Niehaus v. Intel Corp.*, No. C-05-2720-MHP; (5) *Hamilton v. Intel Corp.*, No. C-05-2721-MHP; (6) *Brauch v. Intel Corp.*, No. C-05-2743-MHP; (7) *Baxley v. Intel Corp.*, No. C-05-2758-MHP; (8) *Frazier v. Intel Corp.*, No. C-05-2813-MHP; (9) *Dickerson v. Intel Corp.*, No. C-05-2818-MHP; and (10) *The Harman Press v. Intel Corp.*, No. C-05-2823-MHP.

Tagalong notices have been filed for the following other 17 Northern District of California actions against Intel, for which conditional transfer orders should be issued soon:

(1) *Shanghai 1930 Restaurant v. Intel Corp.*, No. C-05 2830-MHP; (2) *Benjamin Allanoff v. Intel Corp.*, No. C-05-2834-MHP; (3) *Major League Softball, Inc. v. Intel Corp.*, No. C-05-2831-MHP; (4) *Lazio Family Products v. Intel Corp.*, No. C-05-2859-MHP; (5) *Law Offices Laurel Stanley & Wm. Cronin v. Intel Corp.*, No. C-05-2858-MHP; (6) *Walker v. Intel Corp.*, No. C-05-2882-MHP; (7) *Naigow v. Intel Corp.*, No. C-05-2898-MHP; (8) *Stoltz v. Intel Corp.*, No. C-05-2897-MHP; (9) *Hewson v. Intel Corp.*, No. C-05-2916-MHP; (10) *Lang v. Intel Corp.*, No. C-05-2957-MHP; (11) *Trotter-Vogel Realty, Inc. d/b/a Prudential California Realty v. Intel Corp.*, No. C-05-3028-MHP; (12) *Juskiewicz v. Intel Corp.*, No. C-05-3094-MHP; (13) *Uwakwe, d/b/a/ Tom Cyp Computers v. Intel Corp.*, No. C-05-3197-MHP; (14) *Juan v. Intel Corp.*, No. C-05-3271-MHP; (15) *Dressed to Kill Draperies, LLC, v. Intel Corp.*, No. C-05-3272-MHP; (16) *Kinder v. Intel Corp.*, No. C-05-3273-MHP; (17) *Rush v. Intel Corp.*, No. C-05-3277-MHP.

It is our understanding that the plaintiffs in these tagalong actions will not contest the conditional transfer orders.

Respectfully submitted,



Joy K. Fuyuno
Counsel for Intel Corporation

Attachment

**UNITED STATES OF AMERICA
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

CHAIRMAN:
Judge Wm. Terrell Hodges
United States District Court
Middle District of Florida

MEMBERS:
Judge John F. Keenan
United States District Court
Southern District of New York

Judge D. Lowell Jensen
United States District Court
Northern District of California

Judge J. Frederick Motz
United States District Court
District of Maryland

Judge Robert L. Miller, Jr.
United States District Court
Northern District of Indiana

Judge Kathryn H. Vratil
United States District Court
District of Kansas

Judge David R. Hansen
United States Court of Appeals
Eighth Circuit

DIRECT REPLY TO:

Michael J. Beck
Clerk of the Panel
One Columbus Circle, NE
Thurgood Marshall Federal
Judiciary Building
Room G-255, North Lobby
Washington, D.C. 20002

Telephone: [202] 502-2800
Fax: [202] 502-2888

<http://www.jpml.uscourts.gov>

November 8, 2005

TO INVOLVED COUNSEL

Re: MDL-1717 -- In re Intel Corp. Microprocessor Antitrust Litigation

(See Attached Schedule A of Order)

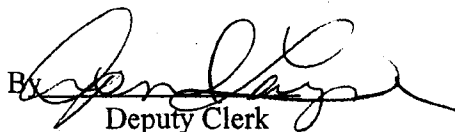
Dear Counsel:

I am enclosing a copy of a Panel transfer order filed today in the above-captioned matter.

The Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425 (2001), and specifically, Rules 1.1, 7.4 and 7.5, refer to "tag-along" actions. Please familiarize yourself with these Rules for your future reference. With regard to Rule 7.5, you need only provide this office with a copy of the complaint which you feel qualifies as a "tag-along" action and informally request that our "tag-along" procedures be utilized to transfer the action to the transferee district. If you have any questions regarding procedures used by the Panel, please telephone this office.

Very truly,

Michael J. Beck
Clerk of the Panel

By 
Deputy Clerk

Enclosure

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

RELEASED FOR PUBLICATION

NOV - 8 2005

DOCKET NO. 1717

**FILED
CLERK'S OFFICE**

***BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION
IN RE INTEL CORP. MICROPROCESSOR ANTITRUST LITIGATION***

***BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D.
LOWELL JENSEN, J. FREDERICK MOTZ, ROBERT L. MILLER, JR.,
KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE
PANEL***

TRANSFER ORDER

This litigation currently consists of fourteen actions listed on the attached Schedule A and pending in two districts as follows: ten actions in the Northern District of California and four actions in the District of Delaware.¹ Pursuant to 28 U.S.C. § 1407, plaintiffs in one Northern District of California action originally moved for centralization of this docket in their California district, but they now favor selection of the District of Delaware as transferee forum. Plaintiff in one of the Delaware actions, Advanced Micro Devices, Inc. (AMD), has stated that it does not object to centralization in the District of Delaware, so long as the Panel orders that AMD's action be allowed to proceed on a separate track within the Section 1407 proceedings. All other responding parties, (i.e, plaintiffs in eight of the nine remaining California actions, the plaintiffs in the three remaining Delaware actions, common defendant Intel Corp., and plaintiffs in various District of Delaware and Northern and Southern District of California potential tag-along actions) support centralization without qualification. With but one exception, all of these additional respondents also support designation of the District of Delaware as transferee forum. The lone dissenter on this point is the plaintiff in a Southern District of California potential tag-along action, who favors centralization in his California district.

On the basis of the papers filed and hearing session held, the Panel finds that the actions in this litigation involve common questions of fact, and that centralization under Section 1407 in the District of Delaware will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. All actions involve allegations that common defendant Intel Corp. monopolized and unlawfully maintained a monopoly in the market for the microprocessing chips that serve as the "brains" of most modern computers. Centralization under Section 1407 is necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings (especially with respect

¹The Panel has been notified of additional related actions recently filed in the Northern and Southern Districts of California, the District of Delaware, the Southern District of Florida, and the Eastern and Western Districts of Tennessee. In light of the Panel's disposition of this docket, these actions will be treated as potential tag-along actions. See Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

- 2 -

to class certification matters), and conserve the resources of the parties, their counsel and the judiciary. Transfer under Section 1407 will have the salutary effect of placing all actions in this docket before a single judge who can formulate a pretrial program that: i) allows discovery with respect to any non-common issues to proceed concurrently with discovery on common issues, *In re Joseph F. Smith Patent Litigation*, 407 F.Supp. 1403, 1404 (J.P.M.L. 1976); and ii) ensures that pretrial proceedings will be conducted in a manner leading to a just and expeditious resolution of the actions to the benefit of not just some but all of the litigation's parties. We decline to grant AMD's request to issue specific instructions that could limit the discretion of the transferee court to structure this litigation as it sees fit. As Section 1407 proceedings evolve in the transferee district, AMD may wish to renew its argument that the nature of its claims and/or its status as a litigant would warrant separate tracking for its action within the centralized MDL-1717 proceedings. That argument is one to be addressed to the transferee court, however, and not to the Panel.

In concluding that the District of Delaware is an appropriate forum for this docket, we observe that i) the district is an accessible location that is geographically convenient for many of this docket's litigants and counsel; ii) the district is well equipped with the resources that this complex antitrust docket is likely to require; and iii) the district is the near unanimous choice of all responding parties.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the District of Delaware are transferred to that district and, with the consent of that court, assigned to the Honorable Joseph J. Farnan, Jr., for coordinated or consolidated pretrial proceedings with the actions pending there and listed on Schedule A.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman

SCHEDULE A

MDL-1717 -- In re Intel Corp. Microprocessor Antitrust Litigation

Northern District of California

David E. Lipton, et al. v. Intel Corp., C.A. No. 3:05-2669
Maria I. Prohias v. Intel Corp., C.A. No. 3:05-2699
Ronald Konieczka v. Intel Corp., C.A. No. 3:05-2700
Patricia M. Niehaus v. Intel Corp., C.A. No. 3:05-2720
Steve J. Hamilton v. Intel Corp., C.A. No. 3:05-2721
Michael Brauch, et al. v. Intel Corp., C.A. No. 3:05-2743
Susan Baxley v. Intel Corp., C.A. No. 3:05-2758
Huston Frazier, et al. v. Intel Corp., C.A. No. 3:05-2813
Dwight E. Dickerson v. Intel Corp., C.A. No. 3:05-2818
The Harman Press v. Intel Corp., C.A. No. 3:05-2823

District of Delaware

Advanced Micro Devices, Inc., et al. v. Intel Corp., et al., C.A. No. 1:05-441
Jim Kidwell, et al. v. Intel Corp., C.A. No. 1:05-470
Robert J. Rainwater, et al. v. Intel Corp., C.A. No. 1:05-473
Matthew Kravitz, et al. v. Intel Corp., C.A. No. 1:05-476

FILED

JAN - 5 2006

**RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

EDWARD RUSH,

No. C 05-03277 MHP

Plaintiff(s),

ORDER

v.

INTEL CORPORATION,

Defendant(s).

This matter having been stayed pending other proceedings, and there being no further reason at this time to maintain the file as an open one for statistical purposes, the Clerk is instructed to submit a JS-6 Form to the Administrative Office.

Nothing contained in this minute entry shall be considered a dismissal or disposition of this action and, should further proceedings in this litigation become necessary or desirable, any party may initiate it in the same manner as if this entry had not been entered.

Dated:


MARJYN HALL PATEL
United States District Judge

FILED

05 JAN 10 PM 12:47

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

Peter T. Dalleo
CLERK

LOCKBOX 18
844 NORTH KING STREET
BOGGS FEDERAL BUILDING
WILMINGTON, DELAWARE 19801
(302) 573-6170

December 29, 2005

Mr. Richard W. Wieking
Clerk, U.S. District Court
United States District Court
Phillip Burton
United States Courthouse
450 Golden Gate Avenue, Box 36060
San Francisco, CA 94102-3434

RE: In Re Intel Corporation, Inc., Antitrust Litigation - MDL - 1717

CA 05-2830 (ND/CA) - 05-894 JJF (D/DE)
CA 05-2831 (ND/CA) - 05-895 JJF (D/DE)
CA 05-2834 (ND/CA) - 05-896 JJF (D/DE)
CA 05-2858 (ND/CA) - 05-897 JJF (D/DE)
CA 05-2859 (ND/CA) - 05-898 JJF (D/DE)
CA 05-2882 (ND/CA) - 05-899 JJF (D/DE)
CA 05-2897 (ND/CA) - 05-900 JJF (D/DE)
CA 05-2898 (ND/CA) - 05-901 JJF (D/DE)
CA 05-2916 (ND/CA) - 05-902 JJF (D/DE)
CA 05-2957 (ND/CA) - 05-903 JJF (D/DE)
CA 05-3028 (ND/CA) - 05-904 JJF (D/DE)
CA 05-3094 (ND/CA) - 05-905 JJF (D/DE)
CA 05-3197 (ND/CA) - 05-906 JJF (D/DE)
CA 05-3271 (ND/CA) - 05-907 JJF (D/DE)
CA 05-3272 (ND/CA) - 05-908 JJF (D/DE)
CA 05-3273 (ND/CA) - 05-909 JJF (D/DE)
CA 05-3277 (ND/CA) - 05-910 JJF (D/DE)

Dear Mr. Wieking:

In accordance with 28 U.S.C. § 1407, enclosed is a certified copy of the *Conditional Order of Transfer* issued by the Judicial Panel on Multidistrict Litigation which references the above-captioned case in your District. Kindly forward the complete original file, together with a certified copy of the docket sheet, to the District of Delaware at the following address:

Clerk, U.S. District Court
Federal Building, Lockbox 18
844 N. King St.
Wilmington, DE 19801

If our case file is maintained in electronic format in CM/ECF, please contact Elizabeth Strickler or Monica Mosley at 302-573-6170.

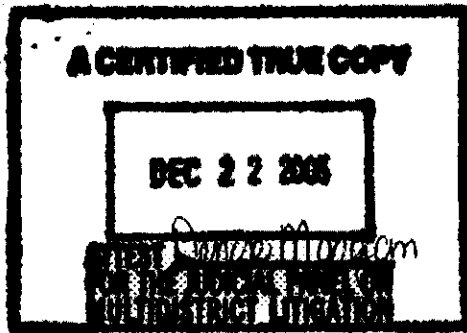
Sincerely,

Peter T. Dalleo, Clerk

By: /s/
Monica Mosley
Deputy Clerk

Enc.

cc: Michael Beck, Clerk of Panel



FILED
 COURT REPORTER
 JUDICIAL PANEL ON
 MULTIDISTRICT LITIGATION
 DOCKET NO. 1717

JUDICIAL PANEL ON
 MULTIDISTRICT LITIGATION
 DEC - 6 2005
 FILED
 CLERK'S OFFICE

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION
IN RE INTEL CORP. MICROPROCESSOR ANTITRUST LITIGATION
(SEE ATTACHED SCHEDULE)

CONDITIONAL TRANSFER ORDER (CTO-1)

On November 8, 2005, the Panel transferred ten civil actions to the United States District Court for the District of Delaware for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. With the consent of that court, all such actions have been assigned to the Honorable Joseph J. Farnan, Jr.

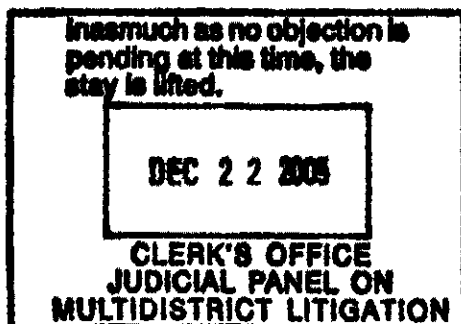
It appears that the actions on this conditional transfer order involve questions of fact which are common to the actions previously transferred to the District of Delaware and assigned to Judge Farnan.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), these actions are transferred under 28 U.S.C. § 1407 to the District of Delaware for the reasons stated in the order of November 8, 2005, ___ F.Supp.2d ___ (J.P.M.L. 2005), and, with the consent of that court, assigned to the Honorable Joseph J. Farnan, Jr.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the District of Delaware. The transmittal of this order to said Clerk shall be stayed fifteen (15) days from the entry thereof and if any party files a notice of opposition with the Clerk of the Panel within this fifteen (15) day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:

Michael J. Beck
 Michael J. Beck
 Clerk of the Panel



**SCHEDULE CTO-1 - TAG-ALONG ACTIONS
DOCKET NO. 1717
IN RE INTEL CORP. MICROPROCESSOR ANTITRUST LITIGATION**

<u>DIST. DIV. C.A. #</u>	<u>CASE CAPTION</u>
CALIFORNIA NORTHERN	
CAN 3 05-2830	Shanghai 1930 Restaurant Partners, L.P. v. Intel Corp.
CAN 3 05-2831	Major League Softball, Inc. v. Intel Corp.
CAN 3 05-2834	Benjamin Allanoff v. Intel Corp.
CAN 3 05-2858	Law Offices of Laurel Stanley, et al. v. Intel Corp.
CAN 3 05-2859	Lazio Family Products v. Intel Corp.
CAN 3 05-2882	Ian Walker v. Intel Corp.
CAN 3 05-2897	Kevin Stoltz v. Intel Corp.
CAN 3 05-2898	Peter Jon Naigo v. Intel Corp.
CAN 3 05-2916	Patrick J. Hewson v. Intel Corp.
CAN 3 05-2957	Lawrence Lang v. Intel Corp.
CAN 3 05-3028	Trotter-Vogel Realty, Inc. v. Intel Corp.
CAN 3 05-3094	Karol Juskiewicz v. Intel Corp.
CAN 3 05-3197	Athan Uwakwe v. Intel Corp.
CAN 3 05-3271	Jose Juan v. Intel Corp.
CAN 3 05-3272	Dressed to Kill Custom Draperies LLC v. Intel Corp.
CAN 3 05-3273	Tracy Kinder v. Intel Corp.
CAN 3 05-3277	Edward Rush v. Intel Corp.
CALIFORNIA SOUTHERN	
CAS 3 05-1507	Justin Suarez v. Intel Corp.
FLORIDA SOUTHERN	
FLS 1 05-22262	Nathaniel Schwartz v. Intel Corp.
KANSAS	
KS 6 05-1303	Marvin D. Chance, Jr. v. Intel Corp., et al. Opposed 12/21/05
TENNESSEE EASTERN	
TNE 2 05-212	Andrew Armbrister, et al. v. Intel Corp.
TENNESSEE WESTERN	
TNW 2 05-2605	Cory Wiles v. Intel Corp.

INVOLVED COUNSEL LIST (CTO-1)
DOCKET NO. 1717
IN RE INTEL CORP. MICROPROCESSOR ANTITRUST LITIGATION

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PAGE 2 OF 2

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INVOLVED JUDGES LIST (CTO-1)
DOCKET NO. 1717
IN RE INTEL CORP. MICROPROCESSOR ANTITRUST LITIGATION

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U.S. District Judge
345 U.S. Courthouse
111 South Highland Avenue
Jackson, TN 38301

Hon. J. Ronnie Greer
U.S. District Judge
United States District Court
220 West Depot Street
Suite 405
Greeneville, TN 37743

~~Hon. J. Thomas Marten~~
~~U.S. District Judge~~
~~232 U.S. Courthouse~~
~~401 North Market St.~~
~~Wichita, KS 67202~~

Hon. Jose E. Martinez
U.S. District Judge
Federal Courthouse Square
Third Floor
301 North Miami Avenue
Miami, FL 33128

Hon. Marilyn Hall Patel
U.S. District Judge
Phillip Burton U.S. Courthouse
Box 36060
450 Golden Gate Avenue
San Francisco, CA 94102-3661

Hon. Thomas J. Whelan
U.S. District Judge
3155 Edward J. Schwartz U.S. Courthouse
940 Front Street, Suite 3155
San Diego, CA 92101

INVOLVED CLERKS LIST (CTO-1)
DOCKET NO. 1717
IN RE INTEL CORP. MICROPROCESSOR ANTITRUST LITIGATION

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~~Ralph L. DeLoach, Clerk~~
~~204 U.S. Courthouse~~
~~401 N. Market Street~~
~~Wichita, KS 67202~~

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880 Front Street
San Diego, CA 92101-8900

UNITED STATES DISTRICT COURT
Northern District of California
450 Golden Gate Avenue
San Francisco, California 94102

www.cand.uscourts.gov

Richard W. Wieking
Clerk

General Court Number
415.522.2000

January 11, 2006

United States District Court
for the District of Delaware
Lockbox 18
844 North King Street
Boggs Federal Building
Wilmington, Delaware 19801

RE: **In Re Intel Corporation, Inc., Antitrust Litigation - MDL - 1717**

CV 05-2830 MHP **05-894 JJF (D/DE)**
CV 05-2831 MHP **05-895 JJF (D/DE)**
CV 05-2834 MHP **05-896 JJF (D/DE)**
CV 05-2858 MHP **05-897 JJF (D/DE)**
CV 05-2859 MHP **05-898 JJF (D/DE)**
CV 05-2882 MHP **05-899 JJF (D/DE)**
CV 05-2897 MHP **05-900 JJF (D/DE)**
CV 05-2898 MHP **05-901 JJF (D/DE)**
CV 05-2916 MHP **05-902 JJF (D/DE)**
CV 05-2957 MHP **05-903 JJF (D/DE)**
CV 05-3028 MHP **05-904 JJF (D/DE)**
CV 05-3094 MHP **05-905 JJF (D/DE)**
CV 05-3197 MHP **05-906 JJF (D/DE)**
CV 05-3271 MHP **05-907 JJF (D/DE)**
CV 05-3272 MHP **05-908 JJF (D/DE)**
CV 05-3273 MHP **05-909 JJF (D/DE)**
CV 05-3277 MHP **05-910 JJF (D/DE)**

Dear Clerk,

Pursuant to an order transferring the above captioned cases to your court, transmitted herewith are:

- (✓) Certified copy of docket entries
- (✓) Certified copy of TRANSFERRAL ORDER
- (✓) Original case file documents
- (✓) Please be advised that the above entitled action was previously designated to the

Electronic Case Filing program. You can access electronically filed documents through PACER referencing the Northern District of California case number at <https://ecf.cand.uscourts.gov>

Please acknowledge receipt of the above documents on the attached copy of this letter.

Sincerely,
RICHARD W. WIEKING, Clerk

A handwritten signature in black ink, reading "Gina Agustine". The signature is written in a cursive, flowing style.

by: Gina Agustine-Rivas
Case Systems Administrator

Enclosures
Copies to counsel of record